

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 932

H.P. 681

House of Representatives, March 28, 1989

Reference to the Committee on Energy and Natural Resources suggested and ordered printed.

Ed Pert

EDWIN H. PERT, Clerk

Presented by Representative MICHAUD of East Millinocket.

Cosponsored by Senator LUDWIG of Aroostook, Representative AIKMAN of Poland and Representative JACQUES of Waterville.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

An Act to Improve the Management of Solid Waste in Maine.

(EMERGENCY)

1 Public Advocate;
3 Commissioner of Defense and Veterans' Services;
5 Director of Human Resources; and
7 Executive Director, Retirement System; and
9 Executive Director, Maine Solid Waste Management Authority.

11 Sec. 2. 5 MRSA §12004-F, sub-§14 is enacted to read:

13 14. Maine Solid Waste Management Authority Legislative Per Diem 38 MRSA §1761-A

15 Sec. 3. 5 MRSA §12004-I, sub-§22, as enacted by PL 1987, c.
17 786, §5, is repealed.

19 Sec. 4. 5 MRSA §12004-I, sub-§22-A is enacted to read:

21 22-A. Environment: Solid Waste Man- Expenses 38 MRSA
Natural Resources agement Advisory Only §1761-E
23 Council

25 Sec. 5. 38 MRSA c. 18 is enacted to read:

27

CHAPTER 18

29

WASTE REDUCTION, RECYCLING AND WASTE MANAGEMENT

31

§1760-A. Short title

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35 This chapter shall be known and may be cited as the " Waste
Reduction, Recycling and Waste Management Act of 1989."

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§1760-B. Declaration of policy

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41 The Legislature declares it to be the policy of the State,
consistent with its duty to protect the health, safety and
welfare of its citizens, enhance and maintain the quality of the
environment, conserve natural resources and prevent water, air
and land pollution, to encourage and support waste management
programs, public and private, which will reduce the volume,
toxicity and mobility of waste, increase the level of recycling
of all waste and improve efforts to reuse and recover valuable
resources currently managed as waste in a manner that will not
adversely affect the public health, safety and welfare or degrade
49 the environment.

51

The Legislature declares that waste in the State shall be
planned for and managed within a waste hierarchy that is, in

1 order of priority, as follows: waste reduction; recycling;
3 resource recovery and conservation; and land disposal.

5 The Legislature declares that it is the goal of the State to
7 reduce the waste generated in 1995 by 25% through recycling
9 efforts. It is the responsibility of the State Government and
11 local government, solid waste management districts and the
13 businesses and citizens of this State to cooperate and contribute
15 to the realization of this goal.

17 The Legislature declares that individuals, municipalities,
19 businesses and State Government shall develop an integrated solid
21 waste management system. The system shall include waste
23 reduction efforts, recycling, resource recovery and conservation
25 and landfills as the methods of disposing of our solid waste and
27 rely primarily on a regional service delivery system for the
29 management of waste reduction, recycling, disposal and related
31 services.

33 The Legislature declares that an integrated solid waste
35 management program shall begin with the development of a state
37 plan and approval of regional plans for waste management which
39 establish objectives for waste reduction, recycling,
41 environmentally sound disposal and other waste treatment options.

43 The Legislature declares that an integrated waste management
45 system consisting of planning, management and governmental
47 regulation can only be effectively implemented when governmental
49 agencies and authorities coordinate. The Legislature declares
51 that the authority created by this Act shall coordinate closely
with the Department of Environmental Protection in discharging
its duties.

The Legislature declares that privately owned and operated
solid waste facilities have played and will continue to play an
important role in the management of waste.

The Legislature finally declares that this chapter be
construed liberally to accomplish the policies established in
this section.

§1760-C. Definitions

As used in this Act, unless the context otherwise indicates,
the following terms have the following meanings.

1. Authority. "Authority" means the Maine Solid Waste
Management Authority established in section 1761-A.

2. Board. "Board" means the Board of Environmental
Protection.

1 3. Brown good. "Brown good" means an electronic device
2 containing printed circuit boards, capacitors, resistors or
3 transistors which is not included in the definition of white
4 goods and which weighs more than 10 pounds.

5
6 4. Closing reserve fund. "Closing reserve fund" means a
7 fund created for the purpose of financing the closing and
8 maintenance after closing of a waste facility.

9
10 5. Commercial hazardous waste facility. "Commercial
11 hazardous waste facility" means:

12 A. A commercial waste facility that handles hazardous
13 wastes generated off the site of the facility; or

14 B. A commercial facility that, in the handling of a waste
15 generated off the site, generates hazardous waste.

16
17 6. Commercial landfill facility. "Commercial landfill
18 facility" means a privately owned waste facility that accepts
19 solid waste for a fee or other consideration, that is used for
20 the burial of solid waste and that is used for the disposal of
21 waste other than waste generated by its owners. "Commercial
22 landfill facility" does not include a waste facility owned,
23 controlled, operated or used exclusively by:

24 A. A public waste disposal corporation under section
25 1304-B, subsection 5;

26 B. A municipality under section 1305;

27 C. A refuse disposal district under chapter 17; or

28 D. A district, as provided for in this chapter.

29
30 7. Commercial operator. "Commercial operator" means any
31 person owning or operating a commercial waste facility, providing
32 waste disposal services, operating a solid waste facility or
33 providing waste disposal services pursuant to a contract with the
34 authority or a district.

35
36 8. Commercial waste facility. "Commercial waste facility"
37 means a privately owned waste facility that accepts waste from
38 another for consideration and is used for the management of waste
39 generated by persons who do not own or operate the facility. The
40 term does not include a waste facility owned, controlled,
41 operated or used exclusively by:

42 A. A public waste disposal corporation;

43 B. A municipality;

- 1 C. A refuse disposal district; or
- 3 D. A district, as provided in this chapter.
- 5 9. Contingency reserve fund. "Contingency reserve fund"
7 means a fund maintained for the purpose of meeting unexpected
 contingencies in the operation of a waste facility.
- 9 10. Department. "Department" means the Department of
11 Environmental Protection and includes the Board of Environmental
 Protection.
- 13 11. Disposal. "Disposal" means the discharge, deposit,
15 injection, dumping, spilling, leaking or placing of any hazardous
 or solid waste, sludge or septage into or on any land or water so
17 that the hazardous or solid waste, sludge or septage or any
 constituent of part of those waters may enter the environment, be
19 emitted into the air or discharged into any waters, including
 ground waters.
- 21 12. District. "District" means a solid waste management
 district pursuant to subchapter II.
- 23 13. Fee. "Fee means the amount charged by the owner or
25 operator of waste disposal facilities or services to the users of
 the facilities or services.
- 27 14. Generation. "Generation" means the act or process of
29 producing hazardous, special or solid waste, sludge or septage.
- 31 15. Handle. "Handle" means to store, transfer, collect,
33 separate, salvage, process, reduce, recover, incinerate, treat or
 dispose of wastes.
- 35 16. Hazardous waste. "Hazardous waste" means a waste
37 substance or material, in any physical state, designated as
 hazardous by the board under section 1319-O. Hazardous waste
39 does not include waste resulting from normal household or
 agricultural activities. The fact that a hazardous waste or
41 constituent part of hazardous waste may have value or other use
 or may be sold or exchanged does not exclude it from this
 definition.
- 43 17. Host community. "Host community" means the
45 municipality or the division of the unorganized territory in
 which a waste facility is located.
- 47 18. Host region. "Host region" means the district or
49 districts, pursuant to section 1762-A, in which a waste facility
 is located.
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1 19. Lead-acid battery. "Lead-acid battery" means a device
2 designed and used for the storage of electrical energy through
3 chemical reactions involving lead and acids.

5 20. Municipal solid waste landfill. "Municipal solid waste
6 landfill" means a solid waste landfill owned by a municipality or
7 group of municipalities.

9 21. Office. "Office" means the Office of Recycling and
10 Waste Reduction pursuant to section 1764-A.

11 22. Recycling. "Recycling" means the collection,
12 separation, recovery and sale or reuse of metals, glass, paper,
13 leaf waste, plastics and other materials that would otherwise be
14 disposed of or processed as waste or the mechanized separation
15 and treatment of waste, other than through combustion, and the
16 creation and recovery of reusable materials other than as a fuel
17 for the generation of energy.

19 23. Recycling facility. "Recycling facility" means any
20 waste facility utilized to separate or process waste into
21 marketable material.

23 24. Resource conservation. "Resource conservation" means
24 the reduction of the amount of waste generated, the reduction of
25 overall resource consumption and the utilization of recovered
26 resources.

29 25. Resource recovery. "Resource recovery" means the
30 recovery of materials or substances that still have useful
31 physical or chemical properties after serving a specific purpose
32 and can be reused or recycled for the same or other purposes.

33 26. Septage. "Septage" means waste, refuse, effluent,
34 sludge and any other materials from septic tanks, cesspools or
35 any other similar facilities.

37 27. Site. "Site" means the same or geographically
38 contiguous property which may be divided by a public or private
39 right-of-way, provided that the entrance and exit between the
40 properties is at a crossroads intersection and access is by
41 crossing as opposed to going along the right-of-way.
42 Noncontiguous properties owned by the same person but connected
43 by a right-of-way which that person controls and to which the
44 public does not have access is included in the definition of
45 "site."

47 28. Solid waste. "Solid waste" means useless, unwanted or
48 discarded solid material with insufficient liquid content to be
49 free-flowing including, but not limited to, rubbish, garbage,
50 scrap materials, junk, refuse, inert fill material and landscape
51 refuse, but does not include septic tank sludge or agricultural

1 wastes. The fact that a solid waste or constituent of the waste
2 may have value or other use or may be sold or exchanged does not
3 exclude it from this definition.

5 29. Solid waste facility. "Solid waste facility" means a
6 waste facility used for the handling of solid waste.

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8 30. Solid waste landfill. "Solid waste landfill" means a
9 waste facility for the permanent disposal of solid waste on or in
10 land. This term does not include land spreading sites used in
11 programs approved by the department.

12 31. Special waste. "Special waste" means any nonhazardous
13 waste generated by sources other than domestic and typical
14 commercial establishments that exists in such unusual quantity,
15 chemical state or physical state, or any combination of these
16 states, as may disrupt or impair effective waste management,
17 threaten the public health, human safety or the environment, and
18 require special handling, transportation and disposal
19 procedures. Special waste includes, but is not limited to:

20 A. Oil, coal, wood and multifuel boiler and incinerator ash;

21 B. Industrial and industrial process waste;

22 C. Wastewater treatment plant sludge, papermill sludge and
23 other solid waste;

24 D. Debris and residuals from nonhazardous chemical spills
25 and the clean-up residuals of those spills;

26 E. Contaminated soils and dredge spoils;

27 F. Asbestos and asbestos-containing wastes;

28 G. Sandblasting grit and nonliquid paint waste;

29 H. Medical and other biological waste not identified under
30 section 1319-O, subsection 1, paragraph A, subparagraph (4);

31 I. High and low pH waste;

32 J. Spent filter media and residue; and

33 K. Other waste designated by the board.

34 32. Storage. "Storage" means the containment of hazardous
35 solid wastes, sludge or septage, either on a temporary basis or
36 for a period of years, in a manner that does not constitute
37 disposal of the wastes.

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1 33. Substantially expand. "Substantially expand" means the
2 expansion of an existing licensed waste facility by more than
3 25%, as measured by volume of waste or affected land area, from
4 the date of its initial licensed operation.

5 34. Tire. "Tire" means a device made of rubber or any
6 similar substance that is intended to be attached to a motorized
7 vehicle or trailer and is designed to support the load of the
8 motor vehicle or trailer.

9 35. Transport. "Transport" means the movement of hazardous
10 or solid waste, sludge or septage from the point of generation to
11 any intermediate point and finally to the point of ultimate
12 disposition. Movement of the waste on the site where it is
13 generated or on the site of a licensed waste facility is not
14 "transport."

15 36. Waste disposal services. "Waste disposal services"
16 means the provision of services relating to the operation of
17 hazardous or solid waste facilities or the transportation of
18 solid or hazardous waste.

19 37. Waste facility. "Waste facility" means any land area,
20 structure, location, equipment or a combination of them,
21 including dumps used for handling hazardous or solid waste,
22 sludge or septage. Except as otherwise provided in this Act,
23 this term does not include a facility that treats, stores or
24 disposes of solid and special wastes generated by the owner or
25 operator of the facility, regardless of whether the facility is
26 at the site of generation or distant from it. A land area or
27 structure is not a waste facility solely because it is used:

28 A. By its owner for disposing septage from the owner's
29 residence;

30 B. To store hazardous waste generated on the same premises
31 for 90 days or less;

32 C. By individual homeowners or lessees to burn leaves,
33 brush, deadwood and tree cuttings accrued from normal
34 maintenance of their residential property, when burning is
35 permitted under section 599, subsection 3; or

36 D. By its residential owner to burn highly combustible
37 domestic, household trash such as paper, cardboard cartons
38 or wood boxes, when burning is permitted under section 599,
39 subsection 3.

40 38. Waste management. "Waste management" means purposeful,
41 systematic and unified control of the handling and transportation
42 of hazardous or solid waste, sludge or septage.

1 §1761-B. Membership; qualifications; terms; compensation

3 1. Membership. Membership of the authority shall consist
5 of 7 public members appointed by the Governor subject to review
7 by the joint standing committee of the Legislature having
9 jurisdiction over energy and natural resource matters and
11 confirmation by the Senate. The Treasurer of State and the
13 commissioner of the department shall serve as ex officio
15 members. The Governor shall select a chair from among the public
17 members.

19 2. Qualifications. The appointments shall include one
21 public member from each district. No member may be a government
23 employee or a person who is affiliated with or employed by any
25 provider of waste disposal services or any association
27 representing these providers while serving as a member of the
29 authority.

31 3. Terms of office. The appointed members shall each serve
33 4-year terms; except, of the terms of the initial 7 appointments,
35 one shall expire June 30, 1990, 2 shall expire June 30, 1991, 2
37 shall expire June 30, 1992, and 2 shall expire June 30, 1993.
39 Any person appointed to fill a vacancy shall be appointed in the
41 same manner as the former member to complete the unexpired term.

43 4. Reimbursement. Members shall be compensated according
45 to provisions of Title 5, chapter 379. All members shall be paid
47 for expenses in the same manner as state employees.

49 5. Quorum actions. A quorum shall be a majority of the
51 directors. An affirmative vote of the majority of the directors
53 present at a meeting shall be required for any action. No action
55 may be considered unless a quorum is present.

35 §1761-C. Limitation of liability

37 No member of the authority, no member of any division of the
39 authority and no employee of the authority, including the
41 executive director, may be subject to any personal liability for
43 having acted within the course and scope of this membership or
45 employment to carry out any power or duty under this Act. The
47 authority shall indemnify any member of the authority, any member
49 of the board of the authority and any employee of the authority,
51 including the executive director, against expenses actually and
53 necessarily incurred by the person in connection with the defense
55 of any action or proceeding in which the person is made a party
57 by reason of past or present association with the authority.

49 §1761-D. Powers and duties

51 The authority shall have the powers and duties to:

- 1 1. Borrow and lend. Borrow money or otherwise obtain
2 credit in its own name or lend money or otherwise extend credit
3 to any person and exercise all powers of a lender or creditor;
- 5 2. Charge fees for waste disposal services. Charge fees as
6 just and reasonable for the planning, design, construction,
7 operation and other related costs of waste facilities and waste
8 disposal services provided by the authority or provided by the
9 authority on behalf of one or more districts;
- 11 3. Interest subsidies; grants. Provide interest rate
12 subsidies on commercial loans or grants to businesses and
13 nonprofit organizations;
- 15 4. Property. Acquire, use, improve or dispose of any
16 interest in or type of real or personal property;
- 17 5. Sue; be sued. Sue or initiate or appear in any
18 proceeding. The authority may be sued in accordance with Title
19 1, section 409; Title 5, chapter 375; or Title 14, chapter 741;
- 21 6. Plan development, approval and implementation. Develop,
22 approve, update and implement solid waste management and
23 recycling plans. The authority shall adopt and revise the state
24 solid waste management and recycling plan and review and approve
25 regional solid waste management and recycling plans;
- 27 7. Manage waste facilities. Plan, design, construct and
28 operate, or enter into contract for, waste facilities for those
29 solid, special and hazardous wastes that present a special
30 statewide need including, but not limited to, tires, asbestos,
31 incinerator ash or hazardous wastes;
- 33 8. Site waste facilities. Recommend candidate sites or
34 develop generic siting criteria for wastes determined to warrant
35 state level attention and review and approve applications for new
36 and expanded waste facilities for consistency with state and
37 regional siting recommendations and waste management objectives
38 outlined in state and regional waste management plans;
- 41 9. Act on behalf of a district. Develop and implement
42 regional solid waste management plans and facilities when a
43 district fails to meet the planning, recycling and waste
44 management conditions outlined in subchapter II. In carrying out
45 the planning and implementation of district waste disposal
46 services, the authority shall have all the powers provided to
47 districts in section 1762-E;
- 49 10. Direct wastes. Direct solid, special and hazardous
50 wastes from one public or private waste facility to another
51 facility when an emergency is determined to exist by rule or by
 the Governor. The authority may negotiate to provide to the

1 receiving facility fair compensation for the disposal or
2 processing of waste at that facility during the period of
3 emergency;

5 11. Review fees. Review fees for the disposal or
6 processing of waste pursuant to subchapter VI, article 1;

7
8 12. Work with other organizations. Work with other state
9 agencies, regional solid waste districts, municipalities,
10 regional planning agencies and other community, private sector
11 and environmental organizations to manage the State's solid waste;

13 13. Conduct planning and research. Conduct planning,
14 research and analysis for the authority's needs;

15
16 14. Implement programs. Implement solid waste programs
17 that are assigned to the authority by the Governor or the
18 Legislature, including the present programs of the Department of
19 Economic and Community Development, Office of Waste Recycling and
20 Reduction;

21
22 15. Contract for services. Contract with qualified
23 professionals and organizations for assistance in siting,
24 planning, negotiating, constructing, operating and financing of
25 solid waste facilities, programs, services or information needs;
26 and

27
28 16. Hold hearings and adopt rules. Hold hearings and adopt
29 rules, in accordance with the Maine Administrative Procedure Act,
30 Title 5, chapter 375, with respect to the implementation of
31 programs of the authority authorized by this Act.

33 §1761-E. Solid Waste Management Advisory Council

35 As authorized by Title 5, section 12004-I, there is
36 established the Solid Waste Management Advisory Council to
37 provide the authority with information and advice concerning the
38 waste management, recycling and waste reduction needs and
39 opportunities of the State and to assist in the development of
40 policies and planning objectives for inclusion in the state solid
41 waste management plan.

43 1. Membership; terms. The Governor shall appoint 13
44 members: two members each shall represent municipal governments,
45 regional solid waste districts, statewide and local environmental
46 organizations, the recycling industry, and the waste disposal
47 industry; one member shall represent industrial waste generators;
48 and 2 members shall represent the general public. The executive
49 director of the authority shall serve as an ex officio member.
50 All members, except the director, shall be appointed for terms of
51 3 years. The initial appointments to the Recycling Advisory
Council which advised within the Department of Economic and

1 Community Development, Office of Waste Recycling and Reduction
2 shall continue to serve in their appointed terms on the advisory
3 council for the authority. Any vacancy shall be filled for the
4 unexpired portion of the term.

5
6 2. Compensation. Memmlers shall be compensated according to
7 Title 5, chapter 379.

8
9 3. Staff support. The authority shall provide the advisory
10 council with necessary staff support.

11 §1761-F. Executive director

12
13 The executive director shall be the chief administrative
14 officer of the authority and shall be appointed by the Governor.

15
16 The executive director shall oversee day-to-day operations
17 of the authority; hire appropriate staff members; and ca out
18 the responsibilities contained in this chapter. The executive
19 director shall have the following powers and duties.

20
21 1. Employ and remove staff. The executive director shall
22 employ and remove staff of the authority. Persons employed in
23 major policy-influencing positions, as defined in Title 5,
24 section 934-A, and professional staff whose positions were
25 formerly located in the Department of Economic and Community
26 Development shall serve at the pleasure of the executive director.

27
28 The executive director may employ or engage technical or
29 professional consultants as may be necessary or appropriate to
30 assist the authority in carrying out its functions and may enter
31 into contracts with other boards, commissions, departments and
32 divisions of the State, with the University of Maine System or
33 with private entities.

34
35 2. Accept federal funds. The executive director may accept
36 for the State any federal funds appropriated under any federal
37 law relating to the authorized programs of the authority.

38
39 3. Coordinate programs and services. The executive
40 director shall coordinate programs and services of the authority
41 with those programs and services of other state agencies,
42 districts and businesses.

43
44 4. Attend meetings. The executive director shall attend or
45 be represented at meetings of the members of the authority.

46
47 5. Approve expenses. The executive director shall approve
48 all accounts for salaries, per diem expenses, allowable expenses
49 of the authority or of any employee or consultant and expenses
50 incidental to the operation of the authority.

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REGIONAL SOLID WASTE MANAGEMENT DISTRICTS

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§1762-A. District designation

The following counties or aggregates of counties shall determine the solid waste management districts for the purposes of this subchapter:

1. Region I. Region I: York County;

2. Region II. Region II: Cumberland County;

3. Region III. Region III: Androscoggin, Kennebec, Sagadahoc, Knox and Lincoln counties;

4. Region IV. Region IV: Waldo, Hancock, Penobscot and Piscataquis counties;

5. Region V. Region V: Aroostook County;

6. Region VI. Region VI: Washington County; and

7. Region VII. Region VII: Oxford, Franklin and Somerset counties.

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§1762-B. District functions

The purposes of each district formed under this subchapter are to plan, construct, maintain, operate or otherwise provide for a system of waste management for solid wastes and special wastes generated within the district and, in conjunction with municipalities and businesses, foster recycling, utilization disposal and resource recovery for public purposes and for the health, welfare, comfort and convenience of the inhabitants of the district. Each district may provide for the recycling, utilization, disposal or resource recovery of special wastes and agricultural wastes if so decided by the directors of the district. It is anticipated that, in the furtherance of the purpose and declaration of policy of this chapter, each district may contract and otherwise act in conjunction with a variety of public, private and municipal firms, other districts, corporations and persons.

§1762-C. Membership; terms; compensation

There is established within each designated solid waste management district a board of directors comprised as follows.

1. County appointments. The county commissioners of the counties within the district shall select one county commissione

1 and 2 public members from the district to serve on the board of
2 directors.

3
4 2. Municipal appointments. The municipal officers within
5 the district shall caucus and shall elect 3 municipal officers
6 from municipalities within the district to the solid waste
7 management district board of directors.

8
9 3. Joint selections. The 6 members shall select a 7th
10 member who shall be a resident of the district.

11
12 4. Terms of office. The members of the board of directors
13 shall each serve 3-year terms, except, of the initial 3 municipal
14 appointments, each district caucus shall select one member for a
15 one-year term, one member for a 2-year term and one member for a
16 3-year term. If the board member ceases to be a municipal
17 officer during the term of membership, the board member shall
18 resign the membership and the next district caucus shall elect a
19 qualified municipal officer to fill the membership for the
20 remainder of the unexpired term.

21
22 5. Chair of the board of directors. The members of the
23 board of directors shall elect a chair from among their number.

24
25 6. Compensation. A director shall receive no compensation
26 for that director's services but shall be entitled to the
27 necessary expenses, including traveling expenses, incurred in the
28 discharge of that director's duties.

29
30 §1762-D. Powers and duties

31
32 1. General. Each district formed under this subchapter
33 shall have the power, within the district, to provide for the
34 planning, financing, construction, equipping, operation and
35 maintenance of facilities for the handling or disposal of solid
36 and special waste, including resource recovery and recycling; to
37 generate revenues from those activities; to make contracts with
38 persons, firms, corporations, partnerships, limited partnerships
39 and other entities, whether private, public or municipal; and, in
40 general, do all other things necessary or incidental for the
41 exercise of its powers or to the accomplishment of the purposes
42 of the district.

43
44 2. Sue and be sued. Each district may sue or initiate or
45 appear in any proceeding. The district may be sued in accordance
46 with Title 1, section 409; Title 5, chapter 375; or Title 14,
47 chapter 741.

48
49 3. Acquisition of property; eminent domain. A district may
50 acquire and hold real and personal property which it determines
51 necessary for its purposes and is granted the right of eminent
domain. For those purposes, a district may take and hold, either

1 by exercising its right of eminent domain or by purchase, lease
3 or otherwise, for public uses, any land, real estate, easements
5 or interest in real estate necessary for constructing,
establishing, maintaining and operating disposal, recycling,
resource recovery and utilization facilities.

7 No property may be so taken unless the property is located within
9 the district.

11 4. Gifts and grants. The district may apply for and accept
13 gifts, loans or other property from the United States, the State
15 or any person for any of its purposes, enter into any agreement
required in connection therewith and hold, use and dispose of the
money or property in accordance with the terms of the gift,
grant, loan or agreement.

17 5. Property exempt from taxation. Property, both real and
19 personal, rights and franchises of a district are exempt from
taxation.

21 6. Facilities and services. A district may construct,
23 equip, develop, expand, improve and operate solid and special
25 waste facilities and disposal services as it determines necessary
and may negotiate contracts for the use of public or private
facilities and services.

27 7. Rates and charges. A district may establish and collect
29 rates and charges for the facilities and services provided by the
31 district and may negotiate and collect rates and charges for
facilities and services contracted for by the district. Rates
and charges shall be subject to subchapter VI, article 1.

33 8. Disposition of property. A district may purchase, sell,
35 lease, acquire, convey, mortgage, improve and use real and
personal property in connection with the purposes of the district.

37 9. Disposition of products and energy. A district may make
39 agreements pertaining to the purchase, sale and use of products,
41 including the generation, transmission and sale of energy in
connection with the purposes of the district.

43 10. Contracts. A district has the power to make contracts,
including, but not limited to, the power to:

45 A. Contract with architects, engineers, financial and legal
47 consultants and other experts for services;

49 B. Contract with persons, firms, corporations, limited
51 partnerships, partnerships, associations, authorities and
agencies for the operation of waste facilities and for
services relating to the recycling and disposal of solid
waste, resource conservation and resource recovery;

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C. Contract for the handling of solid waste on the basis of guaranteed amounts, whether delivered for disposal and accepted for disposal or not, with payments based on the guaranteed amounts, whether actually disposed of or not. The payments may be variable and may be determined by formulas expressed in those contracts;

D. Contract with the State, the United States or any subdivision or agency thereof for services; and

E. Contract with any municipality for the services of that municipality or its facilities.

11. Use of bidding processes. A district may use a negotiated or competitive bid process or any other process which may be advantageous to the district. The determination of the process shall be made by and at the discretion of the directors of the district.

12. Employees; services. A district may employ and establish salaries and qualifications for such professional, clerical and administrative staff personnel as may be necessary for the operation of the district.

13. Siting of waste facilities. A district shall identify and designate candidate sites and may review applications for new or expanded waste facilities within the district pursuant to subchapter V, article 1.

14. Development of plan. A district shall develop, approve, revise and implement a solid waste management plan for its jurisdiction.

15. Bonding powers. A district may issue bonds, notes or other debt instruments under this subchapter.

16. Regulating solid waste disposal and recycling activities. A district may adopt rules to regulate the handling, collection, transportation, resource conservation, resource recovery and disposal of solid and special wastes within the district. This authority does not extend to environmental impacts, licensing or permitting of facilities and is limited to service delivery and management concerns.

17. Annual audit. Each year, an audit shall be made of the accounts of the district and authorized agents of a certified public accounting firm appointed by the directors shall have access to all necessary books and records. Upon the completion of each audit, a report shall be made to the chair of the district board of directors and a copy shall be sent to the authority.

1
3 18. Hold hearings; rules. The directors may hold hearings
5 and adopt rules to regulate the delivery of waste disposal
7 services including the handling, delivery, transportation,
9 recycling, utilization, resource recovery and disposal of solid
11 waste within the district.

13 §1762-E. Bonds and notes in general

15
17 1. Authorization of bonds. Subject to the limitations in
19 subsection 10 and section 1762-H, any district may provide by
21 resolution of its board of directors for the borrowing of money
23 and the issuance from time to time of bonds and notes for any of
25 its corporate purposes, including, but not limited to:

27 A. Paying and refunding its indebtedness;

29 B. Paying any necessary expenses and liabilities incurred
31 under this Act, including organizational and other necessary
33 expenses and liabilities, whether incurred by the district
35 or any municipality in the district. The district may
37 reimburse any municipality in the district for any such
39 expenses incurred or paid by that municipality;

41 C. Paying costs directly or indirectly associated with
43 acquiring properties, paying damages, constructing,
45 maintaining and operating waste facilities, making renewals,
47 additions, extensions and improvements to the property or
49 facilities and covering interest payments during the period
51 of construction or for such period as the directors may
determine;

D. Providing reserves for debt service, repairs and
replacements or other capital or current expenses as may be
required by a trust agreement or resolution securing bonds
or notes;

E. Financing all or part of a waste facility for a user.
As used in this section, "user" means one or more persons or
entities other than a district, acting as lessee, purchaser,
mortgagor, borrower or contracting party; and

F. Any combination of these purposes.

Bonds may be issued by a district under this subchapter as
general obligations of the district or as special obligations
payable solely from particular funds. The principal, premium and
interest on all bonds shall be payable solely from funds provided
for that purpose from revenues. All bonds issued by a district
under this subchapter shall be legal obligations of the district,
and all districts formed under this subchapter are declared to be
quasi-municipal corporations under Title 30-A, section 5701.

1 Bonds may be issued under this subchapter without obtaining the
3 consent of any commission, board, bureau or agency of the State
5 or of any municipality encompassed by the district and without
7 any other proceedings, conditions or things other than those
9 proceedings, conditions or things which are specifically required
11 by this Act. Except as provided in this subchapter, bonds issued
by a district do not constitute a debt or liability of the State
or any municipality encompassed by the district or constitute a
pledge of the faith and credit of the State or any such
municipality. A statement to this effect shall be recited on the
face of the bonds.

13 2. Notes. Any district formed under this subchapter may
15 also provide by resolution of its board of directors, without
17 district vote, for the issuance from time to time of notes in
19 anticipation of:

- 21 A. Bonds authorized under this Act;
- 23 B. The revenues to be collected or received in any year; or
- 25 C. The receipt of federal or state grants or other aid.
27 The issuance of these notes shall be governed by the
29 applicable provisions of this Act relating to the issuance
31 of bonds, provided that notes in anticipation of revenue
33 must mature no later than one year from their respective
35 dates and notes issued in anticipation of federal or state
37 grants or other aid and renewals thereof must mature no
39 later than the expected date, as determined by the board of
directors, of receipt of those grants or aid. The board of
directors may adjust the maturity date of notes issued in
anticipation of federal or state grants or other aid to
reflect changes in the expected date of receipt. Notes in
anticipation of revenue issued to mature less than one year
from their dates may be renewed from time to time by the
issuance of other notes, provided that the period from the
date of an original note to the maturity of any note issued
to renew or pay the note or the interest thereon may not
exceed one year.

41 Any such district may enter into agreements with the State or the
43 United States, or any agency of either, or any municipality,
45 corporation, commission or board authorized to grant or loan
47 money or to otherwise assist in the financing of projects of the
49 type which that district is authorized to carry out, and to
accept grants and borrow money from any such government, agency,
municipality, corporation, commission or board as may be
necessary or desirable to accomplish the purposes of the district.

51 3. Maturity; interest; form; temporary bonds. The bonds
issued under this Act shall be dated, shall mature at such time
or times not exceeding 40 years from their date or dates and

1 shall bear interest at such rate or rates as may be determined by
2 the board of directors or determined pursuant to a formula
3 approved by the board of directors or by a 3rd party rate-setting
4 agent selected by the board of directors, and may be made
5 redeemable before maturity, at the option of the district, at
6 such price or prices and under such terms and conditions as may
7 be fixed by the board of directors prior to the issuance of the
8 bonds. The board of directors shall determine the form of the
9 bonds, including any interest coupons to be attached, and the
10 manner of execution of the bonds, and shall fix the denomination
11 or denominations of the bonds and the place or places of payment
12 of principal and interest which may be at any financial
13 institutions having trust powers within or without the State.
14 Bonds shall be executed in the name of the district by the manual
15 or facsimile signature of an officer or officers authorized in
16 the resolution to execute the bonds, but at least one signature
17 on each bond shall be a manual signature. Coupons, if any,
18 attached to the bonds shall be executed with the facsimile
19 signature of the officer or officers of the district designated
20 in the resolution. In case any officer whose signature or
21 facsimile signature appears on any bonds or coupons ceases to
22 hold that office before the delivery of the bonds, the signature
23 or its facsimile shall nevertheless be valid and sufficient for
24 all purposes, as if the officer had remained in office until the
25 delivery. Notwithstanding any other provisions of this Act or
26 any recitals in any bonds issued under this Act, all such bonds
27 shall be deemed to be negotiable instruments under the laws of
28 this State. The bonds may be issued in coupon or registered
29 form, or both, as the board of directors may determine, and
30 provision may be made for the registration of any coupon bonds as
31 to principal alone and as to both principal and interest, and for
32 the reconversion into coupon bonds of any bonds registered as to
33 both principal and interest. The board of directors may sell the
34 bonds either at public or private sale and for such price as it
35 determines is in the best interests of the district. The
36 proceeds of the bonds of each issue shall be used solely for the
37 purpose for which those bonds have been authorized and shall be
38 disbursed in such manner and under such restrictions as the board
39 of directors may provide in the resolution authorizing the
40 issuance of the bonds or in the trust agreement securing the
41 bonds. The resolution providing for the issuance of bonds and
42 any trust agreement securing the bonds may contain such
43 limitations upon the issuance of additional bonds as the board of
44 directors determines proper and these additional bonds shall be
45 issued under such restrictions and limitations as may be
46 prescribed by that resolution or trust agreement. Prior to the
47 preparation of definitive bonds, the board of directors may,
48 under like restrictions, issue interim receipts or temporary
49 bonds, with or without coupons, exchangeable for definitive bonds
50 when those bonds are executed and available for delivery. The
51 board of directors may provide for the replacement of any bond
that is mutilated, destroyed or lost.

1
3 4. Pledges and covenants; trust agreement. In the
5 discretion of the board of directors of any district, each or any
7 issue of bonds may be secured by a trust agreement between the
9 district and a corporate trustee which may be any financial
11 institution having trust powers within or without the State.

13 The resolution of the directors authorizing the issuance of the
15 bonds or the trust agreement may pledge or assign, in whole or in
17 part, the revenues and other money held or to be received by the
19 district and any accounts and contracts or other rights to
21 receive the revenues or money, whether then existing or
23 thereafter coming into existence and whether then held or
25 thereafter acquired by the district and the proceeds thereof, and
27 may convey or mortgage the waste facilities or any other
29 properties of the district. The resolution may also contain
31 provisions for protecting and enforcing the rights and remedies
33 of the bondholders, including, but not limited to, covenants
35 setting forth the duties of the district and the board of
37 directors in relation to the acquisition, construction,
39 reconstruction, improvement, repair, maintenance, operations and
41 insurance of waste facilities or any other properties; the fixing
43 and revising of rates, tolls, assessments, rents, tipping fees,
45 transportation charges and other charges; the application of the
47 proceeds of bonds; the custody, safeguarding and application of
49 revenues; and the defining of defaults and providing for remedies
51 in the event thereof, which may include the acceleration of
maturities, the establishment of reserves and the making and
amending of contracts. The resolution or trust agreement may set
forth the rights and remedies of the bondholders and of the
trustee, if any, and may restrict the individual right of action
by bondholders as is customary in trust agreements or trust
indentures securing bonds or debentures of corporations. In
addition, the resolution or trust agreement may contain such
other provisions as the board of directors may deem reasonable
and proper for the security of the bondholders, including means
by which the resolution or trust agreement may be amended. All
expenses incurred in carrying out the resolution or trust
agreement may be treated as a part of the cost of operation. The
pledge by any such resolution or trust agreement shall be valid
and binding and shall be deemed continuously perfected for the
purposes of the Uniform Commercial Code from the time that the
pledge is made. All revenues, money, rights and proceeds so
pledged and thereafter received by the district shall immediately
be subject to the lien of the pledge without any physical
delivery or segregation thereof or further action under the
Uniform Commercial Code, or otherwise, and the lien of the pledge
shall be valid and binding as against all parties having claims
of any kind in tort, contract or otherwise against the district
regardless of whether those parties have notice thereof.

1 The resolution authorizing the issuance of bonds under this Act,
3 or any trust agreement securing those bonds, may provide that all
5 or a sufficient amount of revenues and assessments, after
7 providing for the payment of the cost of repair, maintenance and
9 operation and reserves therefor as provided in the resolution or
11 trust agreement, shall be set aside at such regular intervals as
13 provided in the resolution or trust agreement and deposited in
15 the credit of a fund for the payment of the interest on and the
17 principal of bonds issued under this Act as the bonds shall
become due and the redemption price or purchase price of bonds
retired by call or purchase. The use and disposition of money in
or to the credit of the fund shall be subject to such regulations
as may be provided in the resolution authorizing the issuance of
the bonds or in the trust agreement securing the bonds and,
except as may otherwise be provided in the resolution or trust
agreement, the fund shall be a fund for the benefit of all bonds
without distinction or priority of one over another.

19 5. Trust funds. Notwithstanding any other provision of
21 law, all money set aside for payment of the bonds, or other
23 purposes pursuant to the provisions of any trust agreement
25 securing the bonds, shall be deemed to be trust funds to be held
27 and applied as provided by the trust agreement, provided that
29 investment or deposit of those funds shall be subject to the
31 provisions applicable to municipal funds under Title 30-A,
33 chapter 223, subchapter III-A. The resolution authorizing the
issuance of bonds or the trust agreement securing the bonds shall
provide that any officer to whom, or bank, trust company or other
financial institution or fiscal agent to which, money shall be
paid shall act as trustee of money and shall hold and apply the
money for these purposes, subject to such regulations as may be
provided in the resolution or trust agreement or as may be
required by this Act.

35 6. Remedies. Any holder of bonds issued under this Act or
37 of any of the coupons pertaining to those bonds, and the trustee
39 under any trust agreement, except to the extent the rights given
41 may be restricted by the resolution authorizing the issuance of
43 those bonds or trust agreement, may, either at law or in equity,
45 by suit, action, mandamus or other proceedings for the
47 appointment of a receiver to take possession and control of the
49 properties of the district, protect and enforce all rights under
51 the laws of the State or granted under this Act or under the
resolution or trust agreement and may enforce and compel the
performance of all duties required by this Act or by the
resolution or trust agreement to be performed by the district or
by any officer of the district, including the fixing, charging
and collecting of rates, fees and charges for the use of or for
the services and facilities furnished by the district or, if
applicable, the making of any assessments against member
municipalities under section 1756.

1 7. Refunding bonds. Any district formed under this Act by
2 resolution of its board of directors, without district vote, may
3 issue refunding bonds for the purpose of paying any of its bonds
4 at maturity or upon acceleration or redemption. The refunding
5 bonds may be issued at such time prior to the maturity or
6 redemption of the refunded bonds as the board of directors deems
7 to be in the public interest. The refunding bonds may be issued
8 in sufficient amounts to pay or provide the principal on the
9 bonds being refunded, together with any redemption premium on the
10 bonds, any interest accrued or to accrue to the date of payment
11 of those bonds, the expenses of issuance of the refunding bonds,
12 the expenses of redeeming the bonds being refunded and such
13 reserves for debt service or other capital or current expenses
14 from the proceeds of the refunding bonds as may be required by a
15 trust agreement or resolution securing bonds. The issuance of
16 refunding bonds, the maturities and other details thereof, the
17 security therefor, the rights of the holders thereof and the
18 rights, duties and obligations of the district in respect of the
19 same shall be governed by the applicable provisions of this Act
20 relating to the issuance of bonds other than refunding bonds.

21 8. Tax exemption. All bonds, notes or other evidences of
22 indebtedness issued under this Act, their transfer and the income
23 therefrom, including any profit made on the sale thereof, shall
24 at all times be free from taxation within the State.

25 9. Bonds declared legal investments. Bonds and notes
26 issued by any district under this Act are made securities in
27 which all public officers and public bodies of the State and its
28 political subdivisions, all insurance companies, associations and
29 other persons carrying on an insurance business, trust companies,
30 banks, bankers, banking associations, savings banks and savings
31 associations, including savings and loan associations, credit
32 unions, building and loan associations, investment companies,
33 executors, administrators, trustees and other fiduciaries,
34 pension, profit-sharing, retirement funds, other persons carrying
35 on a banking business and all other persons who are now, or may
36 hereafter be, authorized to invest in bonds or other obligations
37 of the State, may properly and legally invest funds, including
38 capital in their control or belonging to them. The bonds and
39 notes are made securities which may properly and legally be
40 deposited with and received by any state, municipal or public
41 officer or any agency or political subdivision of the State for
42 any purpose for which the deposit of bonds or other obligations
43 of the State is authorized by law.

44 10. Certain bond issues; notice; special meeting; vote. In
45 the event that the directors vote to authorize bonds or notes for
46 any of the corporate purposes of a district, excluding notes
47 payable within one year, notes in anticipation of the revenues to
48 be collected or received in any year, notes in anticipation of
49 bonds which have already been authorized in accordance with this

1 Act or notes in anticipation of the receipt of approved federal
3 or state grants, the authorized amount of which, singly or in the
aggregate included in any one financing, is \$1,000,000 or more,
5 the directors shall:

7 A. Provide notice to the general public of the proposed
bond or note issue and the purposes for which the debt is
9 being incurred; and

11 B. Call a special district meeting for the purpose of
permitting the collection of testimony from the public
13 concerning the amount of the debt so authorized. Notice of
the proposed bond or note issue, the purposes for which the
15 debt is being issued and the call of the special meeting
shall be published at least once in a newspaper having
17 general circulation in the district.

19 No debt may be incurred under the vote of the directors until the
expiration of 7 full days following the date on which the special
21 district meeting was held. If, prior to the expiration of that
period, a petition signed by at least 5% but not less than 50 of
23 the registered voters of the district is filed with the clerk of
the district requesting reference of the vote of the directors to
25 referendum, the clerk of the district shall call and hold a
special election of the voters of the district for the purpose of
27 submitting to referendum vote the question of approving the vote
of the directors. The vote of the directors shall be suspended
29 until it has received approval by vote of a majority of the
voters of the district voting on the question at the special
31 election.

33 11. Negotiated or competitive bidding process. Any notes,
bonds or other instruments of indebtedness may be the subject of
35 a negotiated or competitive bidding process, or any other process
which may be advantageous to the district, and determination of
37 the process to be used shall be made by and at the discretion of
the directors of the district.

39 **§1762-F. Fees and charges**

41 All persons, firms and corporations, whether public, private
43 or municipal, shall pay to the treasurer of any district
designated under this subchapter the rates, tolls, assessments,
45 rents, tipping fees, transportation charges and other fees or
charges established by the directors for services provided by the
47 district. In this subchapter, the term "other fees or charges"
includes, but is not limited to, interest on delinquent accounts
49 at a rate not to exceed the highest lawful rate set by the
Treasurer of State for municipal taxes. The district may submit
51 periodic bills directly to individual users or to member
municipalities, as determined by the directors.

1 A district may establish schedules of fees and charges by
2 any method determined by the directors. Fees and charges are
3 subject to the provisions of subchapter VI, article 1.

5 The rates, tolls, assessments, rents, tipping fees,
6 transportation charges and other fees or charges shall be
7 established to provide revenue at least sufficient, together with
8 any other money available, to:

9
10 1. Current operating expenses. Pay the current expenses of
11 operating and maintaining the waste facilities of the district;

12 2. Payment of interest and principal. Pay the principal,
13 premium and interest on all bonds and notes issued by the
14 district under this Act when due and payable;

15 3. Payments into reserve funds. Create and maintain such
16 reserves as may be required by any trust agreement or resolution
17 securing bonds and notes;

18 4. Repairs, replacements and renewals. Provide funds for
19 paying the cost of all necessary repairs, replacements and
20 renewals of the waste facilities of the district; and

21 5. Payment of obligations. Pay or provide all amounts which
22 the district may be obligated to pay or provide by law or
23 contract, including any resolution or contract with or for the
24 benefit of the holders of its bonds and notes.

25
26 §1762-G. Collection of unpaid charges

27 The treasurer of the district may collect the rates, tolls,
28 assessments, rents, tipping fees, transportation charges and
29 other charges established by the district and those charges shall
30 be committed to the treasurer of the district. The treasurer
31 may, after demand for payment, sue in the name of the district in
32 a civil action for any rate, toll, rent, assessment, tipping fee,
33 transportation charge or other charges remaining unpaid in any
34 court of competent jurisdiction. In addition, the treasurer may
35 order the termination of service for nonpayment of any amount
36 owed to the district.

37 §1762-H. Guarantee by municipalities of district bonds and notes

38 1. Guarantee of bonds and notes. Subject to approval by a
39 vote of the inhabitants of the district to be held in accordance
40 with Title 30-A, section 2528, the district board of directors
41 may provide by resolution for the issuance, at one time or from
42 time to time, of guaranteed notes and bonds of the district for
43 any purpose for which the district may issue debt. Except as
44 otherwise provided, notes and bonds issued by the district in
45 accordance with this section shall be authorized, issued and sold

1 in the same manner as and shall be subject to the other
3 provisions of this subchapter relating to notes and bonds. The
5 principal, premiums, if any, and interest on notes and bonds
7 issued under this section shall be guaranteed by the member
9 municipalities of the district and the full faith and credit of
11 the member municipalities shall be pledged for the guarantee
13 provided in this section. The share of liability of each member
municipality for the guaranteed notes and bonds shall be
established in accordance with a fraction, the numerator of which
is the most recent state valuation of all property within the
member municipality and the denominator of which is the most
recent total state valuation of all property located within the
member municipalities of the district.

15 2. Application of guarantee. The guarantee provided for
17 under this section shall apply to notes and bonds of the district
designated by the district board of directors under subsection 1.

19 **SUBCHAPTER III**

21 **SOLID WASTE PLANNING**

23 **Article 1.**

25 **State Solid Waste Management Plan**

27 **§1763-A. State plan adoption; goals**

29 1. Plan generally. The authority shall adopt and revise a
31 comprehensive solid waste management plan for the State which
33 sets forth state policies, goals and strategies regarding the
35 efficient, cost-effective and environmentally sound management of
37 wastes generated in the State. This plan shall provide guidance
39 and direction to the authority, districts and municipalities in
41 planning and implementing waste management and recycling
43 alternatives. The plan shall be adopted after consultation and
cooperation with the department, the solid waste management
districts and the Solid Waste Management Advisory Council. The
plan shall be the basis for the authority in making its finding
of consistency in facility siting decisions as provided in
subchapter V, article 1. The plan shall also serve as a guide
for commercial entities interested in developing waste facilities
in the State.

45 2. Waste hierarchy. The plan shall address the State's
47 waste management needs in the context of the following waste
hierarchy:

49 A. Waste reduction;

51 B. Recycling;

1 C. Resource recovery and conservation; and

3 D. Land disposal.

5 §1763-B. State plan implementation; revisions

7 The authority shall adopt the initial solid waste management
9 plan by rule pursuant to Title 5, chapter 375, subchapter II, on
11 or before January 1, 1990. The authority shall revise the plan
13 or components of the plan as necessary, but in no case less than
15 once every 5 years. The department shall be an integral part of
17 the revision process and shall present its recommendations to the
19 authority for consideration.

21 §1763-C. Initial plan

23 The initial state solid waste management plan shall be
25 developed by the department and the Office of Recycling and Waste
27 Reduction by September 30, 1989, in accordance with the following
29 provisions.

31 1. Capacity needs analysis. Information collected and
33 developed by the department during the preparation of the initial
35 capacity needs analysis completed pursuant to section 1310-O
37 shall be incorporated into the initial state solid waste
39 management plan if that information is determined to be current
41 and accurate.

43 2. State recycling plan. The state recycling plan
45 developed pursuant to section 1310-K shall be incorporated into
47 the initial solid waste management plan.

49 §1763-D. Plan components

51 The initial plan and subsequent revisions shall address
53 solid, special and hazardous wastes, including the following
55 components.

57 1. Waste characterization. The authority shall develop and
59 maintain a comprehensive data base on waste generated or disposed
61 of in the State as part of the plan. The types of data collected
63 shall include:

65 A. The amount of waste generated, handled or transported
67 within the State;

69 B. The source of the waste;

71 C. The type of waste;

1 D. The costs and types of treatment or disposal
2 technologies currently employed, including, without
3 limitation, recycling, composting, landspreading,
4 incineration or landfilling; and

5 E. The costs of transporting waste to disposal facilities.

6
7 2. Estimate of existing capacity. The authority shall
8 develop an inventory and assessment of existing capacity to
9 accommodate waste. The authority shall rely on existing studies
10 and analyses to the maximum extent. The inventory shall include:

11 A. The capacity of licensed waste facilities;

12 B. A survey of the waste generators and the recycling and
13 disposal facilities they utilize;

14 C. The extent to which the State relies on solid waste
15 disposal capacity outside of its jurisdiction; and

16 D. Additional capacity anticipated to become available
17 within the next 2 to 5 years.

18 3. Recycling. The authority shall conduct an assessment of
19 recycling activities that includes the following elements:

20 A. The current level of public recycling efforts, including
21 the quantities and categories of waste currently recycled;

22 B. The current market structure of the recycling industry
23 in the State and in those areas receiving recycled materials
24 from the State. This element shall include identification
25 of the existing private and public recycling operations,
26 recycling capacity and the quantities and categories of
27 materials currently recycled;

28 C. The potential for recycling in the solid waste
29 management districts, including estimates of the types and
30 quantities of waste available for recycling and an analysis
31 of the economic and institutional obstacles to increased
32 recycling;

33 D. The categories of industrial waste which present
34 opportunities for reuse; and

35 E. Opportunities to reduce waste quantities by reducing
36 generation at the source.

37 4. Projected demand. The authority shall project the
38 amount and type of waste that will be generated at least 5 years
39 into the future. This component shall include a needs analysis
40 for current and future expansions of waste treatment and disposal
41 for current and future expansions of waste treatment and disposal

1 capacity by type of waste. The analysis shall include, but not
2 be limited to:

3
4 A. An estimate of waste generation by region and waste type
5 over the next 10-year period and 20-year period based on the
6 best available forecasts of population growth, economic
7 activity within the State, estimates provided by the waste
8 generators and other available information;

9
10 B. A comparison of the projected waste generation levels
11 with existing waste generation levels, including
12 consideration of expected facility closures;

13
14 C. Identification of wastes by types that are capable of
15 being reused or recycled in an economically and
16 environmentally sound manner and the preferred technologies
17 to be utilized;

18
19 D. Identification of the regional availability of waste
20 disposal capacity, including consideration of transportation
21 costs; and

22
23 E. Assessment of the level of competition in the solid
24 waste disposal industry and its effect on waste generation
25 and disposal needs.

26
27 5. Examination of options. The authority shall examine
28 various waste management options for dealing with the projected
29 waste stream, available or anticipated disposal capacity and
30 waste reduction and recycling activities.

31
32 6. State management goals and objectives. The authority
33 shall establish the following, including recommendations for
34 waste management:

35
36 A. Goals and strategies that promote the maximum reduction
37 of waste, the maximum feasible recycling utilization of
38 waste, the recovery of resources and the safe and
39 cost-effective management and disposal of those wastes that
40 remain;

41
42 B. Strategies designed to accomplish the state recycling
43 goals, encourage and promote waste reduction and utilization
44 research and initiatives, innovative pilot recycling or
45 utilization programs, development of recycling-related
46 businesses and industry and public understanding and
47 participation in recycling; and

48
49 C. Goals and strategies for the regional achievement of
50 sound and cost-effective waste reduction and management.
51 These goals and strategies shall be the guidelines for the
development of district solid waste management plans.

1
2
3 7. Candidate sites. Six months after the adoption of the
4 state plan, the authority shall develop a list of candidate sites
5 sufficient in capacity and suitable for siting of waste
6 determined to be a state responsibility. Criteria for the
7 designation of sites are described in subchapter V.

8
9 §1763-E. Reports

10
11 The authority shall submit the adopted plan to the Governor,
12 the department and the joint standing committee of the
13 Legislature having jurisdiction over natural resource matters.

14
15 §1763-F. State review and support of district plans

16
17 1. Designated agency. The authority shall conduct a
18 program of waste management assistance and review to support the
19 development and implementation of district waste management
20 plans, provide technical and financial assistance to accomplish
21 this objective and ensure consistency with state waste management
22 objectives. The authority shall review the preliminary district
23 solid waste management plans for consistency with the state plan,
24 approve the final district plan if consistent with the state plan
25 and review district compliance with plan goals at least every 2
26 years thereafter.

27
28 2. Review and approval of district solid waste management
29 plans; schedule. Each district shall submit for review a
30 district solid waste management plan which addresses the
31 guidelines contained in this subchapter within one year of the
32 adoption of the state plan.

33
34 A. The authority shall review all district solid waste
35 management plans for consistency with the goals and
36 objectives established in the state plan and with the
37 objectives of this Act. In conducting its review, the
38 authority shall solicit written comments from other state
39 agencies, as well as from the department, regional councils,
40 municipalities and interested parties. The comment period
41 shall extend for 30 days after the authority's receipt of
42 the proposed plan.

43
44 B. Each regional council as defined in Title 30-A, chapter
45 119 shall review and submit written comments on the proposed
46 plan of a district any part of which lies within its
47 planning region. The comments shall be submitted to the
48 authority within the 30-day comment period and shall address
49 how the plan meets regional needs.

50
51 C. The authority shall prepare all written comments from
52 all sources in a form to be forwarded to the district board
53 of directors within 45 days after the close of the comment

1 period along with its findings, if warranted, describing the
3 deficiencies in the proposed plan and the recommended
measures for correcting the deficiencies.

5 D. The authority shall provide 60 days for the district to
7 correct the deficiencies and resubmit the plan.

9 E. Upon finding the plan consistent with stated objectives,
11 the authority shall issue an approval of the plan. Approval
13 of the district solid waste management plan authorizes the
district to exercise its solid waste management authority
and to participate in state-supported solid waste management
assistance programs.

15 F. If the district solid waste management plan is found to
17 be inconsistent with the state plan or if the district board
19 of directors fails to adopt a district solid waste plan, the
authority shall develop a plan for the district.

21 3. Final agency action. The authority's decision on
approval constitutes final agency action.

23 4. District plan reports. Each district shall file with
25 the authority a copy of its adopted and approved district plan
and all subsequent revisions, updates or amendments.

27 5. Planning assistance. The authority shall develop and
29 administer a grant program to provide direct financial assistance
31 to districts in the preparation of district solid waste
33 management plans. Grants may be expended for any purpose
35 directly related to the preparation of a district solid waste
management plan as the district and the authority may agree,
including data-gathering activities, hiring of planning staff and
other technical staff, retaining of planning consultants,
contracting with regional councils for planning services and
other related purposes.

37 6. Implementation grants to districts. The authority shall
39 administer grants to assist regional solid waste management
41 districts with implementation of solid waste management
43 objectives after authority approval of the regional solid waste
45 plan. Matching grants may be used in assisting districts to
locate and design facilities; hire technical, legal and financial
expertise; conduct marketing studies and feasibility studies; and
to negotiate or obtain the permits, agreements and financing
necessary prior to construction of regional waste facilities.

47 7. Rule-making authority. The authority may adopt rules
49 necessary to carry out the purposes of this subchapter subject to
51 the provisions of Title 5, chapter 375, subchapter II.

Article 2.

1
3 Regional Solid Waste Management Plans

5 §1763-G. Regional solid waste management plans

7 A solid waste management district, either individually or in
9 cooperation with another district, shall develop a solid waste
11 management plan by January 1, 1991. The plan shall be developed
according to criteria developed by the authority and shall meet
the following guidelines.

13 1. Inventory of existing waste management practices. The
15 plan shall describe existing collection, processing and disposal
17 systems, including schedules of rates and charges, financing
19 methods, environmental acceptability and opportunities for
21 improvements in the systems. The inventory shall include
municipal systems, interlocal systems and private facilities.
The inventory shall not include special waste facilities owned or
operated by the generator of the wastes managed in those
facilities. The plan may otherwise address hazardous waste.

23 2. Future solid waste disposal needs. The plan shall
25 include an estimate of land disposal capacity which will be
27 needed through the next 10 years on the basis of current and
29 projected waste generation practices. The estimate shall be
based on information supplied by the authority, the department,
local data and based on the anticipated increase due to projected
growth and reductions due to recycling efforts.

31 If special wastes are addressed in the plan, the plan shall
33 describe those special wastes, existing or proposed generators of
35 those wastes, volumes, projected disposal capacities, the costs
37 of collection, processing, management and disposal of those
39 wastes, existing collection, processing and disposal systems,
41 including rates and charges, environmental acceptability and
43 opportunities for improvements in those systems. The plan shall
accommodate these needs using the same powers authorized in this
Act for solid waste, including, by example and not by limitation,
assisting in siting of generator-owned solid waste facilities;
locating, developing or financing new or expanded solid waste
facilities or services; contracting with private parties on
behalf of these generators; or through any other appropriate
means.

45 3. Recycling. The plan shall address waste reduction,
47 separation and resource recovery, shall include objectives,
49 immediately and over specified time periods, for reducing land
51 disposal of solid waste and shall describe how the recycling
goals of the State will be met.

1 4. Plan implementation. The plan shall describe specific
2 functions to be performed and activities to be undertaken to
3 address current and future solid waste management needs. The
4 plans shall include a comparison of costs of the activities to be
5 undertaken, including capital and operating costs, and the affect
6 of the activities on the cost to generators and on persons
7 currently providing solid waste collection, processing and
8 disposal services. The plan shall address the role of private
9 disposal providers and identify out-of-region disposal options if
10 relevant. The plan shall describe how the district is to achieve
11 its solid waste management objectives.

13 5. Public education; compliance. The plan shall designate
14 how public education and compliance may be accomplished.

15 6. Siting. The plan shall establish a siting procedure and
16 development program to ensure the orderly location, development
17 and financing of new or expanded solid waste facilities and
18 services sufficient for a prospective 10-year period, including
19 estimated costs and implementation schedules, proposed procedures
20 for operation and maintenance, estimated annual costs and gross
21 revenues and proposals for the use or closure of facilities after
22 they are no longer needed or usable.

23 7. Enforcement and compliance. The plan shall describe how
24 existing or proposed county and municipal ordinances, licenses
25 and permit requirements relating to solid waste management
26 contribute to accomplishing the district's solid waste management
27 objectives and shall describe existing and proposed regulations
28 and enforcement procedures.

29 8. Local participation. To assist in the development of
30 the plan, a solid waste advisory committee shall be constituted
31 in each district and shall include local elected officials,
32 persons engaged in the collection and disposal of solid waste,
33 citizens and other interested persons.

34 9. Application. The plans shall be developed and approved
35 by January 1, 1991. Within 90 days of the effective date of this
36 Act, each district shall make the necessary personnel, financial
37 and legal arrangements to ensure development and formulation of
38 the plan. Each solid waste management plan shall be developed
39 and effective for a period of not less than 10 years and updated
40 every 5 years.

41 10. Public notice. The district board of directors shall
42 conduct all of its meetings in open, public session with prior
43 notice posted in one or more conspicuous places designed to
44 provide public notice. The board shall hold at least one public
45 hearing on its proposed solid waste management plan. Notice of
46 any public hearing shall be published in a newspaper of general

1 circulation at least twice, with the date of the first
2 publication to be at least 30 days prior to the hearing date.

3 §1763-H. District responsibility for solid waste planning

4 Each solid waste management district is responsible for the
5 development, adoption and implementation of a regional solid
6 waste management plan and its subsequent amendments or
7 revisions. The preparation and amendment of the plan are
8 governed by this section.

9
10 1. Plan preparation. Pursuant to the schedule established
11 in section 1763-F, each district shall prepare a regional solid
12 waste management plan consistent with the goals, guidelines and
13 other provisions of this subchapter and also consistent with the
14 overall goals and regional objectives contained in the state
15 solid waste management plan.

16
17 2. Plan submission. Each region shall submit its proposed
18 solid waste management plan to the authority for review,
19 according to the schedule established in section 1763-F.

20
21 3. Comment period. At least 60 days prior to the public
22 hearing required in section 1763-G, subsection 10, the district
23 board of directors shall forward its proposed plan to the
24 authority and to the applicable regional council for review and
25 comment.

26
27 4. Revision. The authority shall submit its comments and
28 suggested revisions to the district board of directors within 60
29 days of the receipt of the proposed plan.

30
31 5. Comment incorporation. The board of directors shall
32 incorporate the comments of the authority in its proposed plan
33 before conducting the public hearing.

34 §1763-I. Plan adoption

35
36 The plan is adopted upon a majority vote of the board of
37 directors.

38 §1763-J. Implementation of regional solid waste management plans

39
40 Upon authority approval of a regional solid waste management
41 plan, the district shall undertake all necessary steps to
42 implement the plan in accordance with the objectives and time
43 schedule established in the plan.

44
45 1. Implementation actions. Implementation actions include
46 site selection; obtaining title or an option to purchase the
47 land; securing the services of qualified technical, financial and
48 legal professionals; designing and obtaining all permits for the
49

1 facility; obtaining financing for the construction of the
2 facility; developing recycling programs and markets; developing
3 public education programs; and developing and implementing rules.

4 2. Implementation assistance. The district may be eligible
5 for financial assistance from the authority to support recycling
6 programs, general administrative costs, siting review and the
7 design, construction and operation of solid waste facilities
8 needed to meet the objectives outlined in the approved regional
9 solid waste management plan.

10 §1763-K. Candidate sites

11
12
13 Six months after the approval of the district solid waste
14 management plan, the district shall develop a list of candidate
15 sites sufficient in capacity and suitable to accommodate the
16 district's anticipated waste disposal needs as described in the
17 district solid waste management plan. Criteria for the
18 designation of sites are described in subchapter V.

19
20 SUBCHAPTER IV

21
22 RECYCLING AND WASTE REDUCTION

23
24 Article 1.

25
26 General Provisions

27
28 §1764-A. Office of Recycling and Waste Reduction established

29
30 The Office of Recycling and Waste Reduction is established
31 within the authority to carry out the purposes of this
32 subchapter. The Director of the Office of Recycling and Waste
33 Reduction shall administer the office in accordance with the
34 policies of the authority and consistent with the state solid
35 waste management plan and its recycling component.

36
37 The Office of Recycling and Waste Reduction shall assist
38 solid waste management districts, local governments and
39 businesses in planning for and achieving recycling and waste
40 reduction objectives. The office shall:

41
42 1. Local assistance program. Administer programs of
43 financial, technical and planning assistance to solid waste
44 management districts and municipalities to assist in achieving
45 the goals and requirements of this subchapter;

46
47 2. Business assistance program. Administer programs of
48 financial, technical and other types of assistance to businesses
49 to assist in achieving the goals and requirements of this
50 subchapter;
51

1 3. Market development. Identify and develop markets for
2 materials to be recycled and assist both businesses and solid
3 waste management districts in market research and development;

5 4. Public education. Develop and conduct general and
6 specific educational and informational programs;

7
8 5. State Government recycling and waste reduction. Design,
9 promote and coordinate, in cooperation with the Department of
10 Administration, State Government recycling and waste reduction
11 programs;

13 6. Regional recycling programs. Oversee and administer
14 regional recycling activities, assisting municipalities and
15 businesses in accomplishing state and regional recycling and
16 waste reduction goals and requirements; and

17
18 7. Broker of last resort. Serve as the broker of last
19 resort for items to be recycled collected within the district
20 through regional recycling initiatives.

21 Article 2.

23 Local and Regional Recycling and Waste Reduction

25 §1764-B. Local and regional recycling and waste reduction

27 1. Local recycling responsibility. All municipalities
28 shall cooperate with the solid waste management district in the
29 development of regional recycling plans and in their
30 implementation.

31
32 A. By July 1, 1994, all municipalities with populations
33 greater than 5,000, as determined by the most recent
34 population estimates of the Department of Human Services,
35 shall establish and implement source separation, collection
36 and recycling programs sufficient to achieve a 25% waste
37 reduction goal within their territorial jurisdiction.

38 B. By July 1, 1995, all municipalities regardless of
39 population shall recycle at least one of the following items:

41 (1) Newsprint;

42 (2) Corrugated cardboard;

43 (3) Mixed paper;

44 (4) Glass, including all 3 colors;

45 (5) Leaf and yard waste;

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(6) Plastics; or

(7) Others as determined by the municipality.

C. By July 1995, each district shall, in cooperation and coordination with the businesses, commercial operators and municipalities within the district, coordinate, establish, implement or assist in the delivery of recycling programs sufficient to achieve a 25% waste reduction goal within their jurisdiction.

2. Technical and financial assistance program. The office shall manage a program of technical and financial assistance for municipalities and solid waste management districts. This program shall include, without limitation:

A. Grants to districts to hire recycling coordinators to assist in the development of the recycling component of the regional solid waste management plan, initiate and conduct recycling feasibility studies, coordinate regional recycling activities and educate the private sector regarding the benefits of recycling;

B. Technical assistance and grants to study the feasibility of local or regional recycling programs consistent with the recycling component of the state and regional solid waste management plans; and

C. Technical assistance and grants to implement the feasibility studies developed under this section when the proposed activities are consistent with the recycling components of the state and regional solid waste management plans.

3. Incentive program. The office may reimburse municipalities that have designed or implemented recycling programs prior to the enactment of this Act. The office may also offer an incentive program for municipalities that implement a local or regional recycling program prior to their target date.

4. Implementation of local recycling and waste reduction programs. Local implementation of recycling and waste reduction programs shall include the following elements.

A. The governing bodies of municipalities of a population of 5,000 and more shall adopt a recycling program that includes all of the following:

(1) An ordinance requiring households to separate at least 3 materials, determined appropriate by the municipality, from other municipal waste generated at their homes, apartments and other residential

1 establishments and either to deposit these separated
3 items at a locally designated facility or to store
5 these materials until collection. Nothing in the
7 ordinance may be deemed to impair the ownership of
9 separated materials by the person who generated them
11 unless and until the materials are placed at curbside
13 or designated locations for collection by the
15 municipality;

17 (2) At least one scheduled day per month when separated
19 materials are to be placed at curbside or a designated
21 location for collection. The scheduled day shall be
23 designated through public notice;

25 (3) A system including trucks and related equipment
27 sufficient to accomplish the recycling program;

29 (4) Provisions to ensure compliance with the
31 ordinance, including incentives and penalties;

33 (5) Provisions for the recycling of collected
35 materials, including how the municipal programs
37 coordinate with district recycling objectives and
39 programs; and

41 (6) Suitable containers, if curbside collection is
43 practiced, for household separation of designated
45 materials.

47 B. The governing bodies of all other municipalities shall
49 adopt source separation programs that are consistent with
51 the district's recycling and waste reduction goals. The
district, to the extent practicable, shall assist
municipalities in designing and implementing source
separation programs that utilize regional processing and
recycling centers.

Article 3.

Business Recycling and Waste Reduction

§1764-D. Business recycling and waste reduction program

1. Office paper recycling mandated. Companies within the
State shall recycle office paper at sites with 15 or more
employees according to the following schedule.

A. Companies employing 200 or more persons at a site shall
have an office paper recycling program by July 1, 1991;

B. Companies employing 50 or more persons at a site shall
have an office paper recycling program by July 1, 1992; and

1
3 C. Companies employing 15 or more persons at a site shall have an office paper recycling program by July 1, 1993.

5 The office shall provide technical and market development assistance and direction to businesses within the State in order to assist those businesses in meeting this schedule. District recycling coordinators are directed to assist the businesses in their districts in attaining the objectives of this section.

11 2. Certification of tax credit. The office, in cooperation with the State Tax Assessor, shall assist in the administration of tax credits for the purchase of machinery, equipment and materials used by businesses in new or expanded recycling and waste reduction programs pursuant to Title 36, section 5219-C by certifying that the machinery, equipment and materials are eligible for the credit.

19 3. Financial assistance programs. The office shall administer other financial assistance programs for projects which reduce the waste stream or increase recycling that the authority determines appropriate, including assisting the Finance Authority of Maine in determining eligible projects for low-interest loans.

25 4. Technical assistance program. The office shall provide technical assistance to businesses to assist them in meeting the requirements of this subchapter and to further the purposes of this Act.

29 5. Technology transfer. The office, in cooperation with the Maine Science and Technology Commission, shall develop recommendations and a strategy for technology transfer. The office may offer financial and technical assistance in the form of pilot or innovative grants to businesses or individuals engaged in waste reduction or recycling product development or application.

37 6. Industrial sludge reduction. The office shall consult with the districts and the private sector to identify and examine acceptable solutions to the problems of industrial sludge, the first priority being to reduce its volume and toxicity.

43 Article 4.

45 Public Recycling and Waste Reduction Programs

47 §1764-E. State Government recycling and waste reduction program

49 The office, in cooperation with the Department of Administration, shall assess the status of recycling efforts undertaken directly by the State for its own solid waste and shall develop programs for and evaluate existing programs of

1 recycling to reduce the generation of solid waste by the State.
3 The programs shall include, without limitation, recycling of
5 office papers, cardboard, used motor oil, yard waste and other
7 materials used by the State for which recycling markets exist or
9 may be developed.

7 §1764-F. Market development

9 The office shall design and implement a market development
11 strategy, consistent with the recycling component of the state
13 solid waste management plan, which shall include, without
15 limitation, the following elements:

17 1. Collection. Methods of collecting and marketing of
19 materials to be recycled, including those with a direct state
21 role, to achieve necessary economies of scale and product quality
23 specifications. The strategy shall include a plan for source
25 separation of materials to be recycled at the household,
27 municipal, regional or state level, as appropriate;

29 2. Incentive program. An incentive program to encourage
31 end users of materials to be recycled to locate or expand their
33 operations within the State. The office shall consult with the
35 Finance Authority of Maine in developing this element;

37 3. Marketing. A program for facilitating the marketing of
39 materials to be recycled consistent with this section. The
41 program may include a clearinghouse of information for
43 municipalities, regional solid waste districts and recycling
45 businesses to improve the flow of marketing materials to be
47 recycled, as well as direct state involvement in marketing
49 materials to be recycled when private sector capacity is
51 inadequate; and

53 4. Reuse of waste. Assisting industries in promoting the
55 reuse of industrial wastes that are suitable raw materials for
57 other processes. The office shall coordinate those efforts with
59 waste exchanges in the northeastern United States.

61 §1764-G. Public education

63 The office shall design a program of public education in
65 support of the state recycling goals to promote waste reduction,
67 source separation and feasible recycling efforts at the
69 individual, local, regional and state levels.

71 1. Media campaign. The office shall develop and
73 disseminate educational material designed to establish broad
75 public understanding and compliance with the State's recycling
77 and waste reduction goals.

1 2. Kindergarten to grade 12 curriculum. In cooperation
with the Department of Educational and Cultural Services, the
3 office shall develop a curriculum suitable for use in programs at
various grade levels, kindergarten through high school.

5
7 §1764-H. Participation in regional and national recycling and
waste reduction initiatives

9 The Legislature shall encourage cooperative activities among
the authority, other states and the Federal Government for the
11 improved management of solid waste, recycling and waste reduction
initiatives; improvement and, when practicable, of uniform state
13 laws relating to the management, recycling and reduction of solid
waste; and compacts between the State and other states for the
15 improved management, recycling and reduction of solid waste.

17 Article 5.

19 Plastics and Household Hazardous Waste

21 §1764-I. Household hazardous waste program

23 The office shall administer, in cooperation with the
department, a program for household hazardous waste collection
25 and disposal for households, farms, schools and small businesses.

27 1. Responsibilities. The office shall:

29 A. Administer a program of technical assistance to
municipalities and districts;

31 B. Determine the types and amounts of household hazardous
33 wastes to be handled in the program and the size of the
business establishments eligible for assistance;

35 C. Establish guidelines for the registration and operation
37 of household hazardous waste collection programs; and

39 D. Administer a program of public awareness relating to the
41 need for and promotion of collection programs.

43 2. Financial and technical assistance. The office shall
encourage the establishment and operation of household hazardous
waste collection programs in districts and municipalities. No
45 district or municipality may establish a program for the
collection and management of household hazardous wastes until the
47 program has been registered with and approved by the authority.
49 Each municipality shall maintain and submit records to the
authority as required under guidelines or rules promulgated under
this Act.

1 3. Household hazardous waste collection programs. No
2 contractor for the collection of household hazardous waste may be
3 selected to operate a collection program or site unless the
4 contractor can demonstrate to the satisfaction of the department
5 its ability to collect, package, transport and dispose of
6 hazardous waste collected within the municipality or district.

7
8 §1764-J. Plastics

9
10 1. Coding of plastics. The office shall adopt and enforce
11 rules implementing a program for the coding of plastics pursuant
12 to Title 32, chapter 26.

13
14 2. Marine debris. The office shall design and deliver a
15 program of assistance to coastal districts and municipalities
16 with coastal shoreline for addressing the problem of marine
17 debris.

18 SUBCHAPTER V

19 SITING AND REGULATION

20 Article I.

21 Siting

22 §1765-A. District designation of sites

23
24 1. Designation criteria. The districts, pursuant to
25 subchapter III, shall indentify candidate sites within 6 months
26 of the adoption of the district solid waste management plan.
27 Districts that identify the need for additional solid or special
28 waste facilities shall designate sites for inclusion on a
29 candidate list. District designation of sites shall address the
30 following criteria and strive to seek a balance if conflicts
31 emerge.

32 A. To the extent practicable, the site shall be located in
33 proximity to the entities that generate the wastes placed at
34 the site. Any site selected for a special waste facility
35 shall, to the extent practicable, be close to the point or
36 points of generation.

37 B. To the extent possible, the site shall be located in
38 proximity to the transportation systems that are used to
39 convey waste to the site or residuals and materials to be
40 recycled from the site. Any site selected for a special
41 waste facility shall, to the extent practicable, be close to
42 the transportation system used to convey waste to and from
43 the site.

1 C. The capacity or size of the site must be sufficient to
3 accommodate the projected demand as determined in the
 district waste management plan.

5 D. The site and its considered use are consistent with, and
7 actively support, other waste management objectives,
 including waste reduction and recycling.

9 E. The projected price for site development, construction
 and operation must be fair and reasonable.

11 F. The site shall meet preliminary environmental standards
13 developed by the department, including ground water and
 geological standards.

15 G. Existing uses on adjacent properties shall not be in
17 significant conflict with or significantly jeopardized by
 the use of the site.

19 The district may describe sites by their legal description or
21 generically by physical characteristics.

23 2. Review of candidate sites. The selection of candidate
25 sites to be included in the state or district solid waste
 management plan shall not be subject to judicial review at any
27 time.

29 3. Joint lists. Two or more districts may develop a joint
 list of candidate sites.

31 §1765-B. Review of proposed waste facilities

33 Any applicant for new or expanded waste facilities shall
35 submit to a 2-phase review process. The first phase shall be a
 review conducted by the authority of the proposed facility's
37 consistency with state and district waste management objectives.
 The first-phase review must be completed before approval may be
39 granted under the 2nd phase. The 2nd phase shall be a review
 conducted by the department of the facility's environmental
41 impact pursuant to the laws and rules governing the department's
 actions.

43 No permit for a new or expanded waste facility from the
45 board may be issued in the district unless the applicant
 demonstrates to the authority that the proposed facility is a
47 designated site and is provided for in the state or district plan
 or that the proposed facility is consistent with the
49 implementation of the state and district plans and their
 objectives concerning the collection, processing or disposal of
 the waste.

51

1 1. Requirement. The applicant must demonstrate to the
2 authority that the proposed facility:

3 A. Is a candidate site as required in the plan for the
4 district and is consistent with the state plan; or

5 B. Meets all of the following requirements:

6 (1) The proposed facility shall be consistent with the
7 implementation of the approved district and state plans;

8 (2) The proposed facility shall be consistent with
9 district or state waste collection, storage,
10 transportation, processing or disposal in the host
11 community or district;

12 (3) The proposed facility is at least as suitable as
13 candidate sites with respect to the criteria in section
14 1765-A, giving consideration to environmental and
15 economic factors; and

16 (4) The district must have received written notice of
17 the proposed facility from the applicant.

18 2. Departmental approval. This section imposes no limits
19 on the department's ability to issue a permit in a district prior
20 to the approval of a district solid waste management plan.

21 3. Effect. This section becomes effective upon the
22 adoption of the state plan.

23 §1765-C. District acquisition of sites; right of eminent domain

24 Each district may acquire and hold real and personal
25 property necessary or convenient for its purposes, is granted the
26 right of eminent domain and, for those purposes, may take and
27 hold, either by exercising its right of eminent domain or by
28 purchase, lease or otherwise, for public uses any land, real
29 estate, easements or interest in property and any real or
30 personal property and appliances useful for solid or special
31 waste management. The right of eminent domain granted in this
32 section may only be exercised after complying with the procedures
33 in section 1152-A, subsections 1 to 3. The district shall also
34 comply with the following.

35 1. Filing. Each district shall file, prior to commencement
36 of eminent domain proceedings, in the office of the county
37 commissioners of the county in which the property to be taken is
38 located and cause to be recorded in the registry of deeds in the
39 county, plans, the location of all lands, real estate, easements
40 or interest in property, with an appropriate description and the
41 names of the owners, if known.

1
2. Restriction of entry; possession. No entry may be made
3 on any private lands, except to make surveys, until the
4 expiration of 10 days from the filing, whereupon possession may
5 be had of all lands, real estate, easements or interests in that
6 property and other property and rights to be taken. Title to the
7 property shall not vest in the district until payment for the
8 property is made.

9
10 3. Condemnation. Condemnation proceedings shall be
11 conducted following the procedures in sections 1153 and 1154.

12 **§1765-D. Authority assistance in district siting**

13
14 Upon request by a district, the authority may assist the
15 district in the establishment of approved waste facilities,
16 including assistance in planning, location, acquisition,
17 development and operation of the site. The district shall
18 describe fully the need and justification for the request. The
19 authority may request information from the district necessary to
20 assist the district.

21
22 **§1765-E. State designation of sites**

23
24 The authority, in consultation with the department, may
25 develop a list of candidate sites determined through the state
26 plan to be appropriately a responsibility of the State. The
27 authority shall follow the procedures governing district site
28 designation pursuant to section 1765-A.

29
30 **§1765-F. State authority to site waste facilities**

31
32 The authority may site waste facilities pursuant to the
33 following provisions.

34
35 1. Waste facilities serving statewide needs. The authority
36 may site waste facilities that serve statewide needs as
37 determined by the state solid waste management plan. These waste
38 facilities include, but are not limited to, facilities that
39 accommodate special and hazardous wastes.

40
41 2. District fails to site. If a district does not adopt a
42 district plan, designate sites or site facilities as required to
43 implement the district plan consistent with this subchapter or if
44 sites selected are unacceptable to the authority, inconsistent or
45 otherwise not in accordance with the state plan, the authority
46 shall have the same responsibilities, duties and powers as the
47 district, including, but not limited to, the power to adopt a
48 plan, designate sites, acquire land as authorized under this
49 article and site, develop and operate facilities.

1 The authority shall be subject to the provisions governing
2 district acquisition of sites and eminent domain pursuant to
3 section 1765-C.

5 §1765-G. Local limitation

7 No municipality may establish or continue in effect any
8 ordinance or requirement applicable to the location, siting,
9 construction, acquisition, expansion or design of a waste
10 facility, including a facility that treats, stores or disposes of
11 solid and special wastes generated by the owner or operator of
12 the facility, regardless of whether the facility is at the site
13 generation or distant from it.

15 §1765-H. Exemptions

17 Composting facilities and facilities used exclusively for
18 the business purpose of collecting, separating, storing or
19 processing recovered materials shall be exempt from this
20 article. These facilities need no designated sites and no
21 authority approval to locate within a district. These facilities
22 are not exempt from other state requirements or local ordinances.

23 Article 2.

25 Flow Control

27 §1765-I. Flow control

29 Municipalities are expressly authorized to enact ordinances
30 that control solid waste collection, its transportation or its
31 delivery to a specific facility when the purpose and effect of
32 such an ordinance is to gain management control over solid waste
33 and enable the reclamation of resources, including energy, from
34 these wastes. This authorization includes, but is not limited
35 to, ordinances:

37 1. Segregation of waste. Requiring segregation of waste;

39 2. Delivery of waste. Requiring delivery of waste
40 generated within the municipality, or any portion of the waste,
41 to a designated disposal or reclamation facility; and

43 3. Designation of materials to be recycled. Designating
44 certain materials as materials to be recycled and exempting them
45 from subsection 2.

47 SUBCHAPTER VI

49 FINANCE, FEES AND CONTRACTS

51 Article 1.

1
3 Fees and Contracts

5 §1766-A. Just and reasonable fees

7 The authority and the districts shall establish just and
9 reasonable fees for waste disposal services provided by the
11 authority or any district.

13 §1766-B. Purposes of the fees

15 The fees established by the authority or the districts
17 pursuant to this Act shall provide revenue for the following
19 purposes:

21 1. Current expenses. To pay the current expenses, either
23 directly incurred or through contractual agreements with another
25 party or parties, for operating and maintaining the facility or
27 delivering the service and to provide for normal maintenance and
29 replacement of equipment;

31 2. Interest. To provide for the payment of interest on the
33 indebtedness created or assumed by the authority or district;

35 3. Indebtedness. To provide an annual sum equal to not
37 less than 2% nor more than 10% of the term indebtedness
39 represented by the issuance of bonds created or assumed by the
41 authority or the district, which sum shall be turned into a
43 sinking fund and there maintained to provide for the
45 extinguishment of term indebtedness. The money set aside in this
47 sinking fund shall be devoted to the retirement of the term
49 obligations of the authority or district and may be invested in
51 such securities as savings banks in the State are allowed to hold;

4. Principal payments. To provide for annual principal
payments on serial indebtedness created or assumed by the
authority or district;

5. Contingency reserve fund allowance. To provide for a
contingency reserve fund allowance by providing rates to reflect
up to a 5% addition to yearly revenues over what is required to
operate the facility;

6. Closing reserve fund. To provide for a closing reserve
fund by providing rates which over the expected life span of the
facility will generate the amount determined to be necessary by
the department in its licensing process; and

7. Compliance costs. To provide for the costs associated
with licensing, compliance and enforcement efforts of the
department.

1 §1765-C. Uniform fees

3 The authority and the districts shall establish fees which
4 are uniform within the region receiving waste disposal services
5 except as follows.

7 1. Regional costs in excess of average. If the cost of
8 construction and maintenance or the cost of service in a section
9 of the region exceeds the average, the district or the authority
10 may establish higher fees for that section, but these higher fees
11 shall be uniform throughout that section.

13 2. Host community. The authority or the district may set
14 fees for the host community at a level lower than the fees
15 charged to other communities or users, provided that such lower
16 fees are set in a manner consistent with the rules promulgated by
17 the authority.

19 3. Extra-district fees. Districts may set fees to be paid
20 by other districts at a level higher than the fees paid by
21 communities within the territorial jurisdiction of the district
22 providing the waste disposal services, provided that higher fees
23 are set in a manner consistent with the rules promulgated by the
24 authority.

25 §1766-D. Filing of fees and contracts

27 Every district shall file with the authority, within a time
28 to be fixed by the authority by rule, the following:

31 1. Schedules of fees. Schedules of fees for any waste
32 disposal service performed by the district or contracted for by
33 the district; and

35 2. Contracts. All contracts between any district and a
36 commercial waste facility or a commercial operator.

37 The schedules and contracts filed pursuant to this section
38 shall be open for public inspection at the authority. The
39 schedule of fees for waste disposal services performed by the
40 authority, or contracted for by the authority, shall also be open
41 for public inspection.

43 §1766-E. Review of fees

45 The authority shall be authorized to review and approve all
46 fee schedules filed pursuant to section 1766-D to determine if
47 the schedules comply with the rules promulgated pursuant to
48 section 1766-H, subsections 1 to 4.

51 §1766-F. Review and approval of contracts

1 The authority shall have the authority to review and approve
3 contracts between districts and commercial waste facilities or
5 commercial operators to determine if the terms of the contract
7 are just and reasonable and are consistent with the rules
9 established pursuant to section 1766-H, subsections 1 to 4. The
11 authority shall hold a hearing to review the contracts whenever a
13 hearing is requested by either the district or the commercial
15 waste facility or commercial operator or on its own initiative.

17 §1766-G. Hearings and appeals

19 The authority shall establish rules governing the procedures
21 for hearings and appeals pursuant to sections 1766-E, 1766-F,
23 1766-K and 1766-L. The provisions of the Maine Administrative
25 Procedure Act, Title 5, chapter 375, shall apply to this article.

27 §1766-H. Rules

29 The authority shall establish rules which set forth the
31 following:

33 1. Contingency reserve fund. Various contingencies for
35 which the fund must be expended, the methodology for determining
37 the amount to be maintained in the fund and those conditions
39 which will require expenditures of the money contained in the
41 fund;

43 2. Closing reserve fund. Various contingencies for which
45 the fund must be expended, a methodology for determining the
47 amount to be maintained in the fund and those conditions which
49 will require expenditure of the money contained in the fund;

51 3. Fees charged to host communities. Criteria to be used
53 in determining any reduction in fees charged to host communities;

55 4. Fees charged by one district to another district.
57 Criteria to be used in determining the fees to be charged by one
59 district to another district; and

61 5. Contracts between districts and commercial waste
63 facilities or commercial operators. Criteria by which contracts
65 will be reviewed by the authority.

67 Article 2.

69 Maine Solid Waste Management Fund

71 §1766-I. Maine Solid Waste Management Fund established

73 The Maine Solid Waste Management Fund, referred to in this
75 section as the fund, is established as a nonlapsing fund to
77 support programs administered by the Solid Waste Management

1 Authority and the Department of Environmental Protection. All
3 fees established under this article shall be credited to the
5 fund, and administrative expenses directly related to the
7 authority's and the department's programs shall be charged to the
9 fund.

11 Money in the fund not currently needed to meet the
13 obligations of the authority shall be deposited with the
15 Treasurer of State to the credit of the fund and may be invested
17 as provided by law. Interest on these investments shall be
19 credited to the fund.

21 Money in the fund sufficient to meet the administrative
23 costs of the department as allocated by the Legislature shall be
25 transferred to the Maine Environmental Protection Fund on a
27 quarterly basis.

29 Money in the fund may only be expended in accordance with
31 allocations approved by the Legislature. These allocations shall
33 be based on estimates of the actual costs necessary for the
35 authority and the department to administer its programs, to
37 provide financial assistance to districts and to provide other
39 financial assistance necessary to accomplish the purposes of this
41 chapter. Allowable expenditures include Personal Services, All
43 Other and Capital Expenditures associated with planning, finance
45 and technical services, licensing, enforcement and compliance
47 activities.

49 **§1766-J. Fees**

51 1. Fees established. The authority shall establish
53 procedures to charge only those fees specified in this article
55 and pursuant to the requirements of this article. All fees
57 collected by the authority shall be deposited into the Maine
59 Solid Waste Management Fund.

61 2. Application. Fees established under this article become
63 effective on October 1, 1989, with the first payment due on
65 January 20th.

67 **§1766-K. Fee on special waste**

69 There are imposed fees of the following amounts to be levied
71 per ton or per cubic yard for special waste processed at resource
73 recovery facilities and for all special waste from a resource
75 recovery facility that is disposed of at commercial, municipal,
77 district or state landfills. The fee shall be paid by the
79 operator of each municipal landfill and resource recovery
81 facility in the same manner provided for in section 1766-L for
83 municipal solid waste.

85

Asbestos

\$2

1	<u>Oil spill debris</u>	<u>\$4</u>
3	<u>Waste water facility sludge</u>	<u>\$2</u>
5	<u>Ash, coal and oil</u>	<u>\$4</u>
7	<u>Paper mill sludge</u>	<u>\$1</u>
9	<u>Industrial waste</u>	<u>\$6</u>
11	<u>Sandblast grit</u>	<u>\$6</u>
13	<u>Miscellaneous special waste</u>	<u>\$4</u>
15	<u>Municipal solid waste ash</u>	<u>\$6</u>

17 **§1766-L. Municipal solid waste fee**

19 There is imposed a fee for all solid waste processed at
 21 resource recovery facilities and for all solid waste except
 23 process residue and nonprocessable waste from a resource recovery
 25 facility that is disposed of at commercial, municipal, district
or state landfills.

27 1. Fee calculation. The fee shall be paid by the operator
of each municipal, district or state landfill and resource
 29 recovery facility. The fee shall be calculated in one of 2 ways:

31 A. For operators of landfills and resource recovery
facilities that weigh solid waste when it is received, the
 33 fee shall be \$1.50 per ton of waste; or

35 B. For operators of landfills that do not weigh solid waste
when it is received, the fee shall be calculated as if 3
 37 cubic yards were equal to one ton of solid waste.

39 **§1766-M. Disposal fees**

41 There are imposed fees on the following hard to dispose of
 43 items delivered to resource recovery facilities or commercial,
municipal, district or state landfills. The fee shall be paid by
the operator of each landfill and resource recovery facility.

45	<u>Tires</u>	<u>\$2.00</u>
47	<u>Lead-acid batteries</u>	<u>\$1.50</u>
49	<u>White goods</u>	<u>\$10.00</u>
51	<u>Brown goods</u>	<u>\$10.00</u>

1 §1766-N. Fee payments

3 Each operator of a landfill or resource recovery facility
4 shall make the fee payment quarterly. The fee shall be paid on
5 or before the 20th day of April, July, October and January for
6 the 3 months ending the last day of March, June, September and
7 December.

9 1. Quarterly reports. Each fee payment shall be
10 accompanied by a form prepared and furnished by the authority and
11 completed by the operator. The form shall state the total weight
12 or volume of solid waste received by the facility during the
13 payment period and provide any other aggregate information deemed
14 necessary by the authority to carry out the purposes of this
15 chapter. The form shall be signed by the operator.

17 2. Timeliness of payment. The operator shall be deemed to
18 have made a timely payment of the fee if the operator complies
19 with all of the following:

21 A. The enclosed payment is for the full amount owed
22 pursuant to this section and no further authority action is
23 required for collection;

25 B. The payment is accompanied by the required form and the
26 form is complete and accurate; and

27 C. The letter transmitting the payment that is received by
28 the authority is postmarked by the United States Postal
29 Service on or prior to the final day on which the payment is
30 to be received.

33 3. Discount. Any operator that makes a timely payment of
34 the fee as provided in this section shall be entitled to credit
35 and apply against the fee payable, a discount of 1% of the amount
36 of the fee collected.

37 4. Refunds. Any operator who believes the fee was overpaid
38 by the operator may file a petition for refund to the authority.
39 If the authority determines that the operator has overpaid the
40 fee, the authority shall refund to the operator the amount due
41 the operator, together with interest at a rate established by the
42 authority.

45 5. Alternative proof of payment. For purposes of this
46 section, presentation of a receipt indicating that the payment
47 was mailed by registered or certified mail on or before the due
48 date shall be evidence of timely payment.

49 6. Interest. If an operator fails to make a timely payment
50 of the fee, the operator shall pay interest on the unpaid amount
51

1 due at the rate established by the authority, from the last day
2 for timely payment to the date paid.

3
4 7. Additional penalty. In addition to the interest
5 provided in subsection 8, if an operator fails to make timely
6 payment of the fee, there shall be added to the amount of fee
7 actually due 5% of the amount of the fee, if the failure to file
8 a timely payment is for not more than one month, with an
9 additional 5% for each additional month, or fraction of a month,
10 during which the failure continues, not exceeding 25% in the
11 aggregate.

12
13 8. Assessment notice. If the authority determines that any
14 operator has not made a timely payment of the fee, the authority
15 will send the operator a written notice of the amount of the
16 deficiency, within 30 days of determining the deficiency. When
17 the operator has not provided a complete and accurate statement
18 of the weight or volume of waste received at the facility for the
19 payment period, the authority may estimate the weight or volume
20 in the notice.

21
22 The operator charged with the deficiency shall have 30 days to
23 pay the deficiency in full or, if the operator wishes to contest
24 the deficiency, forward the amount of the deficiency to the
25 authority for placement in an escrow account with the Treasurer
26 of State or any bank in the State, or post an appeal bond in the
27 amount of the deficiency. The bond shall be executed by a surety
28 licensed to do business in the State and be satisfactory to the
29 authority. Failure to forward the money or appeal bond to the
30 authority within 30 days shall result in a waiver of all legal
31 rights to contest the deficiency.

32
33 If, through the administrative or judicial review of the
34 deficiency, it is determined that the amount of deficiency shall
35 be reduced, the authority shall within 30 days remit the
36 appropriate amount to the operator, with any interest accumulated
37 by the escrow deposit.

38
39 The amount determined after administrative hearing or after
40 waiver of administrative hearing shall be payable to the
41 authority and shall be collectible.

42
43 If any amount due under this subsection remains unpaid 30 days
44 after receipt of notice of the deficiency, the authority may
45 order the operator of the facility to cease receiving any solid
46 waste until the amount of the deficiency is completely paid.

47
48 9. Filing of appeals. Notwithstanding any other provision
49 of law, all appeals of final authority actions concerning the fee
50 shall be filed with the authority pursuant to section 1766-G.

51
Article 3.

1
3 Solid Waste Trust Fund

5 §1766-0. Solid Waste Trust Fund established

7 The Solid Waste Trust Fund is established to be used by the
9 authority as a nonlapsing, revolving fund for carrying out the
11 purposes of this section. The fund shall be limited to
13 \$4,500,000, the sum of which shall include all funds credited
15 under this section. To this fund shall be credited all fees,
17 penalties, reimbursements and other fees and charges related to
19 this section, and to this fund shall be charged any and all
21 expenses of the authority and the department related to this
23 section, including administrative expenses, costs of removal of
25 discharges of pollutants, restoration of water supplies and
27 3rd-party damages covered by this section.

29 Money in the fund, not needed to meet the obligations of the
31 authority in the exercise of the authority's responsibility under
33 this section shall be deposited with the Treasurer of State to
35 the credit of the fund and may be invested in such manner as is
37 provided for by law. Interest received on that investment shall
39 be credited to the Solid Waste Trust Fund.

41 1. Funding. The fund shall be credited up to 5% of the
43 annual sum of fees levied by the authority on municipal and
45 special waste. Whenever the balance in the fund has reached the
47 limit provided under this section, fees credited to the fund
49 shall be reduced to cover only the related administrative costs
51 of the authority and the Treasurer of State.

2. Disbursements from fund. Money in the fund shall be
disbursed for the following purposes and no others:

A. Administrative expenses, personnel expenses and
equipment costs of the authority related to the
implementation of this section;

B. All costs involved in the removal of waste, abatement of
pollution and the implementation of remedial measures,
including restoration of water supplies;

C. Payment of 3rd-party claims awarded in accordance with
this section;

D. Payment of costs of arbitration and arbitrators; and

E. Payment of costs of insurance to the authority to extend
or implement the benefits of the fund.

3. Third-party damages. Any person, claiming to have
suffered damages to real estate or personal property or loss of

1 income directly or indirectly as a result of malfunctioning waste
2 disposal facilities may apply within 6 months after the
3 occurrence stating the amount of damage alleged to be suffered as
4 a result of the occurrence. The authority shall prescribe
5 appropriate forms and details for the applications. The
6 authority may, upon petition and for good cause shown, waive the
7 6-month limitation for filing damage claims.

9 A. If the claimant, the authority and the person causing
10 the alleged damage agree to the damage claim, the authority
11 shall certify the amount of the claim and the name of the
12 claimant to the Treasurer of State and the Treasurer of
13 State shall pay the amount from the Solid Waste Trust Fund.

15 B. If the claimant, the authority and the person causing
16 the discharge cannot agree as to the amount of the damage
17 claim, the claim shall be transmitted immediately for action
18 to the board of arbitration as provided in this section.

19 C. Third-party damage claims shall be stated in their
20 entirety in one application. Damages omitted from any claim
21 at the time the award is made shall be deemed waived.

22 D. Damage claims arising under this section shall be
23 recoverable only in the manner provided under this section,
24 it being the intent of the Legislature that the remedies
25 provided in this section are exclusive.

26 E. Awards from the fund on damage claims shall not include
27 any amount which the claimant has recovered, on account of
28 the same damage, by way of settlement with or judgment of
29 the federal courts against the person causing or otherwise
30 responsible for the damage.

31 4. Board of arbitration. The board of arbitration shall
32 consist of 3 persons, one to be chosen by the person determined
33 in the first instance by the authority to have caused the alleged
34 damage, one to be chosen by the authority to represent the public
35 interest and one person chosen by the first 2 appointed members
36 to serve as a neutral arbitrator. The determination by the board
37 of the person causing the alleged damage is not an appealable
38 order. The neutral arbitrator shall serve as chair. If the 2
39 arbitrators fail to agree upon, select and name the neutral
40 arbitrator within 10 days after their appointment, then the
41 authority shall request the American Arbitration Association to
42 utilize its procedures for the selection of the neutral
43 arbitrator.

44 A. No member of the authority may serve as arbitrator.

45 B. A party determined by the authority to have caused a
46 damage shall appoint an arbitrator within such period of

1 time as the authority may by rule prescribe. In the event
3 that the party fails to select its arbitrator within 10 days
5 after receipt of notice from the authority that selection is
7 necessary, the authority shall request the American
9 Arbitration Association to select an arbitrator to represent
11 the interest of the party in the arbitration proceedings.

13 C. One board of arbitrations shall be established for and
15 hear and determine all claims arising from or related to a
17 common single claim.

19 D. Hearings before the board of arbitrations shall be
21 informal and the rules of evidence prevailing in judicial
23 proceedings shall not be binding. The board shall have the
25 power to administer oaths and to require by subpoena the
27 attendance and testimony of witnesses, the production of
29 books, records and other evidence relative or pertinent to
31 the issues represented to them for determination.

33 E. Determinations made by a majority of the board of
35 arbitration shall be final and these determinations may be
37 subject to review by a Justice of the Superior Court but
39 only as to matters relating to abuse of discretion by the
41 board. A party seeking review of a board determination must
43 file an appeal in the Superior Court within 30 days of the
45 board's determination.

47 F. Representation on the board of arbitration shall not be
49 deemed an admission of liability for the alleged damage.

51 G. If the final determination of the board of arbitration
includes a damage award, the board shall certify the amount
of the damage award and the name of the claimant from the
Solid Waste Trust Fund no sooner than 35 days after the date
of the final determination of the board. If the
determination of the board is appealed pursuant to paragraph
E, the Treasurer of State shall withhold payment of the
damage award until a final judgment on the appeal is
entered, at which time the Treasurer of State shall pay any
damage awards according to the terms of the final judicial
judgment, with interest at the commercial rate as
established by the Treasurer of State calculated from the
date of the board's final determination.

5. Reimbursements to the Solid Waste Trust Fund. The
authority shall seek recovery to the use of the fund all sums
expended from the fund, including overdrafts, for the following
purposes, including interest computed at 15% a year from the date
of expenditures, unless the authority finds the amount involved
too small or the likelihood of success too uncertain:

- 1 A. All disbursements made by the fund pursuant to
2 subsection 2, paragraphs B, C and D in connection with a
3 claim;
- 4
- 5 B. In the case of a licensed facility promptly reporting a
6 damage, disbursement made by the fund pursuant to subsection
7 2, paragraphs B, C and D in connection with any single
8 occurrence including 3rd-party claims in excess of \$15,000,
9 except to the extent that the costs are covered by payments
10 under any federal or other state programs; and
- 11
- 12 C. Requests for reimbursements to the fund if not paid
13 within 30 days of demand shall be turned over to the
14 Attorney General for collection.

15 The authority may file claims with appropriate federal agencies
16 to recover for the use of the fund all disbursement from the fund
17 in connection with an occurrence.

18

19 6. Waiver or reimbursement. Upon petition of any licensed
20 facility, the authority may, after hearing, waive the right to
21 reimbursement to the fund if it finds that the occurrence was the
22 result of any of the following:

- 23
- 24 A. An act of war;
- 25
- 26 B. An act of State Government, Federal Government or
27 municipal government, except insofar as the act was pursuant
28 to remediation or closure activities; or
- 29
- 30 C. An act of God, which means an unforeseeable act
31 exclusively occasioned by the violence of nature without the
32 interference of any human agency.

33

34 Upon such a finding by the board, immediate credit therefor shall
35 be entered for the party involved. The findings of the authority
36 shall be conclusive as it is the legislative intent that waiver
37 provided in this subsection is a privilege conferred not a right
38 granted.

39

40

41 Article 4.

42

43 Revenue Obligation Securities

44 Mortgage Loans

45

46

47 §1767-A. Definitions

48

49 As used in this article, unless the context otherwise
50 indicates, the following terms have the following meanings.

51

- 1 1. Bond. "Bond" means revenue obligation security.
- 3 2. Cost of project. "Cost of project" means the cost or
5 value of land, buildings, real estate improvements, labor,
7 materials, machinery and equipment, property rights, easements,
9 franchises, financing charges, interest, engineering and legal
11 services, plans, specifications, surveys, cost estimates, studies
13 and other expenses as may be necessary or incidental to the
15 development, construction, acquisition, financing and placing in
17 operation of an eligible project. In addition to these costs,
19 reserves for payment of future debt on any revenue obligation
21 securities may be included as part of the cost of the project.
- 23 Any obligation or expenses incurred by the State, the authority,
25 a district, a municipality or any private person in connection
27 with any of the items of cost specified in this subsection
29 related to revenue obligation securities may be included as part
31 of the cost and reimbursed to the State, the authority, district,
33 municipality or person out of the proceeds of the securities
35 issued.
- 37 3. Eligible collateral. "Eligible collateral" means an
39 eligible project.
- 41 4. Eligible project. "Eligible project" means any waste
43 facility or the capital costs of any waste disposal service
45 including, but not limited to, real property, personal property,
47 machinery and equipment and related expenses.
- 49 5. Facility. "Facility" means an eligible project or
51 eligible collateral.
6. Financial document. "Financial document" means a lease,
installment sale agreement, conditional sale agreement, note,
mortgage, loan agreement or other instrument pertaining to an
extension of financial assistance.
7. Financing assistance. "Financing assistance" or
"financial assistance" means guarantees, leases, insurance,
financing credits, loans or the purchase or discounts thereof,
letters of credit, financing assistance payments, grants or other
financial aid.
8. Financing institution. "Financing institution" or
"financial institution" means any bank, trust company, national
banking association, savings bank, savings and loan association,
federal savings and loan association, industrial bank, mortgage
company, insurance company, credit union, local development
corporation or any other institution or entity authorized to do
business in this State, or any state or federal agency which
customarily provides financing assistance.

1 9. Lease. "Lease" means a contract providing for the use
3 of a project or portions of a project for a term of years for a
 designated or determinable rent. A lease may include an
5 installment sales contract. A lease may include other terms as
 the authority may permit or require.

7 10. Lessee. "Lessee" means a tenant under a lease and may
 include an installment purchaser.

9 11. Loan. "Loan" or "mortgage loan" means an extension of
11 credit made in consideration of a written promise of repayment or
 any other conditions which may be established by the authority
13 performance of which may be secured by a mortgage.

15 12. Maturity date. "Maturity date" means the date on which
 final payment is due as provided in a note, revenue obligation
17 security or other financial document.

19 13. Mortgage. "Mortgage" means an agreement granting a
 lien on, or a security interest in, eligible collateral with
21 certain conditions and includes, but is not limited to, a
 mortgage of real estate, an assignment of rents, a pledge or a
23 security agreement.

25 14. Mortgagee. "Mortgagee" means a grantee or obligee
 under, or a transferee or successor of a grantee or obligee
27 under, a mortgage.

29 15. Mortgage payments. "Mortgage payments" means payments
 required by or received on account of a mortgage or any other
31 financial document, including, but not limited to, payments
 covering interest, installments of principal, taxes, assessments,
33 loan insurance premiums and hazard insurance premiums.

35 16. Mortgagor. "Mortgagor" means the grantor or party
 giving rights to eligible collateral pursuant to a mortgage and
37 includes the successors or assigns of a mortgagor.

39 17. Note. "Note" means an evidence of indebtedness and
 includes a revenue obligation security.

41 18. Rent or rental. "Rent or rental" means payments under
43 a lease.

45 19. Revenue obligation security. "Revenue obligation
 security" or "security" means a note, bond, interim certificate,
47 debenture or other evidence of indebtedness payment of which is
 secured by a pledge of revenues, as provided in this article or
49 by assignment or pledge of other eligible collateral.

51 §1767-B. General powers

1 The authority may, in addition to its other powers and in
2 furtherance of the purposes of this chapter, assist itself or
3 applicants, who may be persons, partnerships, corporations,
4 private or public, except as provided in this chapter,
5 municipalities and districts, in the financing of eligible
6 projects by issuing revenue obligation securities, by issuing or
7 providing securities for mortgage loans, drafting financial
8 documents, trust agreements and other contracts, arranging the
9 financing and negotiating for the sale of the securities. The
10 authority may contract with the Finance Authority of Maine to
11 administer the provisions of this article.

13 The authority may also:

15 1. Kinds of projects. Acquire, construct, reconstruct,
16 maintain, renew, replace or provide financing assistance for
17 eligible waste facilities, waste disposal services or recycling
18 projects, or assist users to acquire, construct, reconstruct,
19 maintain, renew or replace eligible projects;

21 2. Securities for projects. Issue revenue obligation
22 securities to pay the cost of or to provide financial assistance
23 for acquisition, construction, reconstruction, renewal or
24 replacement of eligible projects. Any single issue of securities
25 may provide for the cost of, or for financial assistance for,
26 acquisition, construction, reconstruction, renewal or replacement
27 of any one or more eligible projects which may be separate,
28 unconnected and distinct;

29 3. Acquire securities. Issue revenue obligation securities
30 to acquire one or more issues of revenue obligation securities
31 issued by municipalities or to acquire any other bond not
32 eligible for purchase pursuant to Title 30-A, chapter 225. Any
33 single issue of securities may provide funds for the acquisition
34 of revenue obligation securities of one or more municipalities or
35 of bonds for one or more eligible projects which may be separate,
36 unconnected and distinct;

37 4. Refunding securities. Issue revenue refunding
38 obligation securities as provided to refund any outstanding
39 revenue obligation securities issued under this article or to
40 refund any obligations or securities of any municipality;

41 5. Serve as broker or agent. Serve as a broker, agent or
42 other financial intermediary for the secondary marketing of
43 obligations issued or incurred in connection with the financing
44 of eligible projects and for the encouragement of the flow of
45 private funds for capital investment;

46 6. Facilities. Plan, carry out, acquire, lease and operate
47 facilities and provide for the construction, reconstruction,
48 improvement, alteration or repair of any facility or any part;

1
2
3 7. Acquisition and disposal of property. Acquire or enable
4 a user to acquire, upon reasonable terms from article 4 funds,
5 the lands, structures, property, rights, rights-of-way,
6 franchises, easements and other interests in lands, including
7 lands under water and riparian rights, which are located within
8 the State and deemed necessary or convenient for the construction
9 or operation of any eligible waste project, and dispose of them;

10
11 8. Contracts. Make and enter into all financial documents
12 and other contracts and trust agreements securing revenue
13 obligation securities issued under this article, provided all
14 expenses shall be payable solely from funds made available under
15 this article;

16
17 9. Consent to modification of contracts, lease or
18 agreement. To the extent not forbidden under its contract with
19 the holders of bonds, consent to any modification of any
20 contract, lease or agreement of any kind to which the authority
21 is a party;

22
23 10. Employment of specialists. Employ consulting and other
24 engineers, attorneys, accountants, construction and financial
25 experts, superintendents, managers and other necessary employees
26 and agents and fix their compensation, provided all expenses
27 shall be payable solely from funds made available under this
28 subchapter;

29
30 11. Government contracts. Enter into contracts with
31 districts, municipalities, the State or a federal agency relating
32 to any eligible solid waste project. In the case of contracts
33 involving pollution-control facilities, the consent of the Board
34 of Environmental Protection shall first be obtained,
35 notwithstanding section 362;

36
37 12. Government aid. Accept loans or grants for the
38 planning, construction or acquisition of any eligible solid waste
39 project from a municipality, an authorized agency of the State or
40 a federal agency and enter into agreements with the agency
41 respecting the loans or grants. In the case of all loans, grants
42 or other aid involving pollution-control facilities, the consent
43 of the Board of Environmental Protection shall first be obtained,
44 notwithstanding section 362;

45
46 13. Private aid. Receive and accept aid and contributions
47 from any source of either money, property, labor or other things
48 of value, to be held, used and applied only for the purposes for
49 which these loans, grants and contributions may be made;

50
51 14. Applicability. Provide financial assistance by means
of leases which are not subject to Title 14, section 6010.

1 Leases made under this section may provide that obligations of
2 the lessees shall be unconditional;

3
4 15. Application. Provide financial assistance by means of
5 revenue obligation securities which are not subject to Title 32,
6 chapter 105, relating to dealers in securities;

7
8 16. Electricity. Provide financial assistance for
9 electricity generating projects. Any district, municipality,
10 firm or corporation producing electricity by means of projects
11 described in subsection 1, or by means of a pollution-control
12 project, facility or combined project may, without the approval
13 of and regulation by the Public Utilities Commission, generate
14 and distribute electricity solely for its own use or the use of
15 its tenant, but may not, without proper approval, sell
16 electricity to other than an electric public utility corporation
17 or cooperative authorized to make, generate, sell and distribute
18 electricity.

19 §1767-C. Issuance of revenue obligation securities

20
21 1. Notice of intent to issue bonds; actions to contest
22 validity. The authority may provide, at one time or from time to
23 time, for the issuance of revenue obligation securities of the
24 authority for the purposes authorized in this chapter. No
25 revenue obligation securities of the authority may be issued
26 until:

27
28 A. The project has been determined to be consistent with
29 state and district solid waste management plans pursuant to
30 section 1765-B and the necessary permits have been obtained
31 from the department.

32
33 B. A notice of the intent of the authority to issue the
34 securities is published at least once in a newspaper of
35 general circulation in the district in which the project is
36 to be located:

37
38 (1) No later than 14 days after the date on which the
39 certification is issued;

40
41 (2) Describing the general purpose or purposes for
42 which the securities are to be issued;

43
44 (3) Stating the maximum principal amount of the
45 proposed securities; and

46
47 (4) Including a statement as to the time within which
48 any petition to contest the issuance of the securities
49 must be commenced.

50
51

1 Any action or proceeding in any court to contest the issuance of
2 the securities must be started within 30 days after the date of
3 the publication required by paragraph B and otherwise shall be
4 governed by Title 5, chapter 375, subchapter VII. For the
5 purposes of this subchapter and the Maine Administrative
6 Procedure Act, Title 5, chapter 375, the later date of newspaper
7 publication required by paragraph B shall constitute the final
8 agency action with respect to the issuance of the securities.
9 After the expiration of the 30-day period of limitation, no right
10 of action or defense founded upon the invalidity of the issuance
11 of the securities may be opened to question in any court upon any
12 grounds.

13
14 2. Treasurer of State as agent. The Treasurer of State
15 shall, at the direction of the authority, act as the authority's
16 agent for the sale and delivery of revenue obligation securities
17 and anticipatory notes. The Treasurer of State shall assist the
18 authority in the preparation, issuance, negotiation and sale of
19 the securities and notes and provide reasonable advice and
20 management assistance. The authority may employ further counsel
21 or assistants or act in its own behalf, provided that the sale
22 and delivery of revenue obligation securities and anticipatory
23 notes shall be carried out at the authority's direction with and
24 through the Treasurer of State.

25
26 3. Conclusive authorization. All revenue obligation
27 securities of the authority shall be conclusively presumed to be
28 fully authorized and issued under the laws of the State, and any
29 person or governmental unit shall be estopped from questioning
30 their authorization, sale, issuance, execution or delivery by the
31 authority.

32
33 4. Maturity; interest. The securities of each issue of
34 revenue obligation securities shall be dated, mature at a time or
35 times not exceeding 30 years from the date of the securities and
36 bear interest at a rate or rates determined by the authority. At
37 the option of the authority, the securities may be made
38 redeemable before maturity at a price or prices and under terms
39 and conditions fixed prior to issuance.

40
41 5. Form. The authority shall determine the form of the
42 securities, including any attached interest coupons, the manner
43 of execution of the securities, the denomination or denominations
44 of the securities and the place or places for payment of
45 principal and interest, which may be at any financial institution
46 within or without the State. Revenue obligation securities shall
47 be executed in the name of the authority by the manual or
48 facsimile signature of the authorized official or officials. Any
49 attached coupons shall be executed with the manual or facsimile
50 signature of the authorized official or officials. Signatures
51 and facsimiles of signatures on securities and coupons are valid
for all purposes even if the authorized official ceases to hold

1 office before delivery of the securities. The securities may be
2 issued in coupon or registered form or both as the authority may
3 determine. Provision may be made for the registration of any
4 coupon securities to principal alone and to both principal and
5 interest, and for the reconversion into coupon securities of any
6 securities registered to both principal and interest. In
7 addition to this subsection, the authority may provide for
8 transfer of registration of the authority's registered revenue
9 obligation securities by book entry on the records of the entity
10 designated for that purpose and may enter into such contractual
11 arrangements as may be necessary to accomplish these purposes.
12 In the event a book entry method of transfer is used, principal
13 of and interest on those registered securities shall be payable
14 to the registered owner shown in the book entry, the owner's
15 legal representatives, successors or transferees.

17 6. Sale. The authority may sell the securities at a public
18 or private sale, in a manner and at a price the authority
19 determines to be in the best interest of the authority. The
20 authority shall not sell the securities to any firm, partnership,
21 corporation or association, including an affiliate or subsidiary,
22 which is a party to any contract pertaining to the financed
23 project or which is to rent, purchase, lease or otherwise occupy
24 premises constituting part of the project. The authority may
25 sell the securities to a seller of the project if the project is
26 to be used and operated by a 3rd party.

27 7. Proceeds. The proceeds of each issue shall be used
28 solely for the authorized purposes and shall be disbursed as
29 provided in the securing trust agreement or other document.
30 Administration costs incurred by the authority under this program
31 may be drawn from those proceeds. If the proceeds are less than
32 the cost of the project, by error in the estimate or otherwise,
33 additional securities may be issued in a like manner to provide
34 the amount of the deficit and, unless otherwise provided in the
35 securing trust agreement or such other document, the additional
36 securities are deemed to be of the same issue and shall be
37 entitled to payment from the same fund without preference or
38 priority of the securities first issued for the same purpose.
39 The authority may place limits or restrictions on the issuance of
40 additional revenue obligation securities through the securing
41 trust agreement or other document. The authority may provide for
42 the replacement of mutilated, destroyed or lost securities.
43 Revenue obligation securities may be issued under this subchapter
44 without obtaining the consent of any department, division,
45 commission, board, bureau or agency of the State and without any
46 other proceedings or the occurrence of any conditions or things
47 other than those proceedings, conditions or things which are
48 specifically required by this subchapter. Notwithstanding any of
49 the other provisions of this subchapter, or of any recitals in
50 any securities issued under this subchapter, all such securities
51 issued under this subchapter shall be deemed to be securities

1 are deemed to be negotiable instruments issued under the laws of
2 this State.

3
4 8. Credit not pledged. Except as provided in this
5 subsection, securities issued under this subchapter shall not
6 constitute any debt or liability of the State or of any
7 municipality in the State or any political subdivision of the
8 State, or of the authority or a pledge of the faith and credit of
9 the State or of any such municipality or political subdivision,
10 but shall be payable solely from the revenues of the project or
11 projects for which the securities are issued or from other
12 eligible collateral or the revenues or proceeds of other eligible
13 collateral pledged to the payment of the revenue obligation
14 securities and all such securities shall contain on the
15 securities' face a statement to that effect. The issuance of
16 securities under this subchapter shall not directly or indirectly
17 or contingently obligate the State or any municipality or
18 political subdivision to levy or to pledge any form of taxation
19 whatever or to make any appropriation for payment.

20
21 9. Anticipatory borrowing. In anticipation of the sale of
22 securities under this article, the authority may issue temporary
23 notes and renewal notes, the total face amount of which does not
24 exceed at any one time outstanding, the authorized amount of the
25 securities. The period of anticipatory borrowing shall not
26 exceed 3 years and the time within which the securities are to
27 become due shall not be extended by the anticipatory borrowing
28 beyond the term permitted by law.

29
30 10. Environmental protection. Revenue obligation
31 securities of the authority shall not be issued for a project
32 until the department has certified to the authority that all
33 licenses required by the department with respect to the project
34 have been issued or that none are required. Any subsequent
35 enlargement or addition to the project for which approval is
36 sought from the authority requires certification by the
37 department.

38 §1767-D. Trust agreements or other documents

39
40 1. Trust agreements or other documents. At the discretion
41 of the authority, revenue obligation securities may be issued
42 under this subchapter pursuant to a trust agreement or other
43 document. The trust agreement or other document may:

44
45 A. Pledge or assign the revenues or proceeds of the project
46 or projects or other eligible collateral;

47
48 B. Set forth the rights and remedies of the security
49 holders and other persons and contain any reasonable and
50 legal provisions for protecting the rights and remedies of
51 the security holders;

1
3 C. Restrict the individual right of action by security holders; and

5 D. Include covenants setting forth the duties of the authority and user in relation to:

7 (1) Acquisition of property or eligible collateral;

9 (2) Construction, reconstruction, renewal, replacement and insurance of the project or eligible collateral;

11 (3) Rents to be charged or other payments to be made for use;

13 (4) Payment for the project or eligible collateral; and

15 (5) Custody, safeguarding and application of all money.

17
19 Any financial institution may furnish indemnifying bonds or pledge the securities as may be required by the authority.

21
23 2. Mortgages. To further secure the payment of the revenue obligation securities, the trust agreement or other document may mortgage or assign the mortgage of the project, or any part of the project, and create a lien on or security interest in any or all of the project. In the event of a default with respect to the revenue obligation securities, the trustee, mortgagee or other person may be authorized by the trust agreement or other document containing a mortgage or assignment of a mortgage to take possession of, hold, manage and operate all or any part of the mortgaged property and, with or without taking possession, to sell or from time to time lease the property in accordance with law. Any security interest granted by the authority under this chapter may be created and perfected in accordance with the Uniform Commercial Code, Title 11, Article 9, notwithstanding Title 11, section 9-104, subsection 5.

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37 3. Additional provisions. Any trust agreement or other document may contain provisions which shall be a part of the contract with holders of revenue obligation securities as to:

39
41
43 A. Pledging any specified revenues or assets of the authority to secure the payment of the securities, subject to agreements with existing holders of securities;

45
47 B. Pledging all or any part of the unencumbered revenues or assets of the authority to secure the payment of securities, subject to agreements with existing holders of securities;

49
51 C. Setting aside, regulating and disposing of reserves or sinking funds;

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D. Limitations on the purpose to which the proceeds of sale of securities may be applied and the pledge of the proceeds to secure the payment of the securities or of any issue of securities;

E. Limitations on the issuance of additional securities;

F. The terms on which additional securities may be issued and secured and the refunding of outstanding or other securities;

G. The procedure, if any, by which the terms of any contract with holders of securities may be amended or abrogated, including the proportion of the holders which must consent and the manner in which the consent may be given;

H. Limitations on the amount of money to be expended by the authority for operating expenses of the authority;

I. Vesting in a trustee or trustees such property, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the holders of the securities under this subchapter, and limiting or abrogating the right of the holders of the securities to appoint a trustee under this chapter or limiting the rights, powers and duties of the trustee;

J. Defining the acts or omissions to act which will constitute a default in the obligations and duties of the authority to the holders of the securities and providing for the rights and remedies of the holders of the securities in the event of default, including, as a matter of right, the appointment of a receiver; but only if the rights and remedies are not inconsistent with the laws of the State and other provisions of the subchapter; and

K. Any other matters, of like or different character, which in any way affect the security or protection of the holders of the securities.

4. Expenses; pledges. All expenses incurred in carrying out a trust agreement or financial document may be treated as a part of the cost of the operation of the project. All pledges of revenue or eligible collateral under this subchapter shall be valid and binding from the time when the pledge is made. All the revenues or eligible collateral pledged and later received by the authority shall immediately be subject to the lien of the pledges without any physical delivery or further action under the Uniform Commercial Code or otherwise. The lien of the pledges shall be

1 valid and binding against all parties having claims of any kind
2 in tort, contract or otherwise, against the authority,
3 irrespective of whether the parties have notice thereof.

5 5. Other provisions. A trust agreement or financial
6 document may contain other provisions the authority deems
7 reasonable and proper for the security of the security holders.

9 §1767-E. Rentals and revenues

11 1. Provisions. Before issuing revenue obligation
12 securities, the authority shall determine that there will at all
13 times be revenues and funds sufficient:

15 A. To pay the principal and interest of the securities as
16 they become due and payable and, in its discretion, to
17 create and maintain reserves for that purpose; and

19 B. To pay the cost of maintaining and, where applicable,
20 repairing the project unless provision is made in the
21 financial document or other contract for maintenance and,
22 where applicable, repair.

23 2. Sinking fund. All project rentals and other revenues,
24 except those required in subsection 1, paragraph B or to provide
25 reserves for maintenance and, where applicable, repair, may be
26 set aside at regular intervals as provided in the trust agreement
27 or other document and deposited to the credit of a sinking fund
28 charged with payment of the interest and principal of the
29 securities as they fall due, any necessary charges of paying
30 agents for paying principal and interest, and the redemption
31 price or the purchase price of securities retired by call or
32 purchase. To use the disposition of money to the credit of the
33 sinking fund shall be subject to regulations prescribed in the
34 trust agreement or other document. Except as may otherwise be
35 provided in the trust agreement or other document, the sinking
36 fund shall be a fund for the benefit of all securities issued for
37 the project or projects without distinction or priority of one
38 over another.

41 3. Trust funds. All money received under this subchapter
42 shall be deemed trust funds, to be held and applied solely as
43 provided in this subchapter. Any officer to whom, or any bank,
44 trust company or other fiscal agency or trustee to which the
45 money shall be paid shall act as trustees of the money and shall
46 hold and apply it for the purposes of this subchapter, subject to
47 the requirements of this subchapter, the trust agreement or other
48 applicable document.

49 §1767-F. Remedies

1 Any holder of revenue obligation securities or coupons
2 issued under this subchapter and the trustee under any trust
3 agreement, except as restricted by the trust agreement or
4 applicable document, may, by appropriate legal action, protect
5 and enforce any and all rights under the laws of this State or
6 granted under this subchapter, the trust agreement or other
7 document, including the appointment of a receiver, and may
8 enforce and compel the performance of all duties required by this
9 subchapter, the trust agreement or other document to be performed
10 by the authority, including the collecting of rates, fees and
11 charges for the use of the project. Any proceeding shall be
12 brought for the benefit of all holders of the securities and any
13 coupons.

15 **§1767-G. Revenue refunding securities**

17 The authority may provide for the issuance of revenue
18 refunding securities of the authority to refund any outstanding
19 revenue securities issued under this subchapter or under
20 subchapter IV or to refund any obligations or securities of any
21 municipality, including the payment of any redemption premiums
22 and any interest accrued or to accrue to the date of redemption,
23 and, if deemed advisable for the authority, to construct or
24 enable the construction of improvements, extensions, enlargements
25 or additions of the original project. The authority may provide
26 for the issuance of revenue obligation securities of the
27 authority for the combined purpose of refunding any outstanding
28 revenue obligation securities or revenue refunding securities
29 issued under this subchapter or to refund any obligations or
30 securities of any municipality, including the payment of
31 redemption premiums and interest accrued or to accrue and paying
32 all or any part of the cost of acquiring or constructing or
33 enabling the acquisition or construction of any additional
34 project or part of any improvements, extensions, enlargements or
35 additions of any project. The issuance of the securities, the
36 maturities and other details, the rights and remedies of the
37 holders and the rights, powers, privileges, duties and
38 obligations of the authority shall be governed by the provisions
39 of this subchapter insofar as they are applicable.

41 **§1767-H. Tax exemption**

43 Revenue obligation securities issued under this article
44 shall constitute a proper public purpose and the securities,
45 their transfer and the income from them, including any profits
46 made on their sale, shall at all times be exempt from taxation
47 within the State, whether or not those securities, their transfer
48 or the income from them, including any profits on their sale, are
49 subject to taxation under the United States Internal Revenue Code.

51 **§1767-I. Leasehold or other interests of lessee taxable**

1 The interest of the user of any project is subject to
2 taxation in the manner provided for similar interests in Title
3 36, section 551, subject to Title 36, sections 655 and 656.

5 §1767-J. Bonds as legal investments

7 The revenue obligation securities of the authority and any
8 loan or extension of credit issued under this article, shall be
9 legal investments in which all public officers and public bodies
10 of the State, its political subdivisions, all districts and
11 municipalities and municipal subdivisions, all insurance
12 companies and associations and other persons carrying on an
13 insurance business, all banks, bankers, banking associations,
14 trust companies, savings banks and savings associations,
15 including savings and loan associations, building and loan
16 associations, investment companies and other persons carrying on
17 a banking business, all administrators, guardians, executors,
18 trustees and other fiduciaries and all other persons who are not
19 or may later be authorized to invest bonds or other obligations
20 of the State, may properly and legally invest funds, including
21 capital, in their control or belonging to them. The revenue
22 obligation securities and any loan or extension of credit which
23 is issued under this subchapter are also made securities, which
24 may properly and legally be deposited with the received by all
25 public officers and bodies of the State or any agency or
26 political subdivisions and all municipalities and public
27 corporations for any purpose for which the deposit of bonds or
28 other obligations of the State is now or may later be authorized
29 by law.

31 §1767-K. Capital reserve funds; obligation of State

33 1. Capital reserve fund. The authority may create and
34 establish one or more capital reserve funds and may pay into any
35 such capital reserve fund any money appropriated and made
36 available by the State for the purposes of any such fund, any
37 proceeds of sale by the authority of revenue obligation
38 securities to the extent determined by the authority and any
39 other money available to the authority. For purposes of this
40 section, the amount of any letter of credit, insurance contract,
41 surety bond, indemnification agreement or similar financial
42 undertaking available to be drawn on and applied to obligations
43 to which money in any such fund may be applied shall be deemed to
44 be and counted as money in the capital reserve fund.

45 2. Application. Money in any capital reserve fund created
46 pursuant to subsection 1, except as provided in this section,
47 shall be used solely with respect to revenue obligation
48 securities or mortgage loans, repayment of which is secured by
49 any such fund and solely for the payment of principal, accrued
50 interest and costs and expenses chargeable to the mortgage loan
51 or securities, the purchase or redemption of the securities,

1 including any fees or premiums or the payment of interest on the
2 securities. Money in excess of the reserve requirement set forth
3 in subsection 3 may be transferred to other funds and accounts of
4 the authority.

5
6 3. Reserve requirement. The authority may provide that
7 money in any such fund shall not be withdrawn at any time in an
8 amount which would reduce the amount of any such fund to less
9 than the maximum amount of principal and interest becoming due
10 and payable under any applicable trust agreement or other
11 agreement in the next succeeding 12-month period, the amount
12 being referred to as the capital reserve requirement, except for
13 the purpose of paying the amount due and payable with respect to
14 revenue obligation securities or mortgage loans, repayment of
15 which is secured by any such fund.

16
17 4. Issuance limit. The authority may provide that it shall
18 not issue revenue obligation securities if the capital reserve
19 requirement with respect to securities outstanding and then to be
20 issued and secured by any such fund will exceed the amount of any
21 such fund, including the amount available to be drawn on any
22 letter of credit given to secure the capital reserve requirement,
23 at the time of issuance, unless the authority, at the time of
24 issuance of the securities, shall deposit in any such fund from
25 proceeds of the securities to be issued, or from other sources,
26 an amount, which, together with the amounts then in any such fund
27 and amounts available to be drawn under any letter of credit,
28 will not be less than the capital reserve requirement.

29
30 5. Security for mortgage loans. With respect to any
31 mortgage loans which may be secured under this article, the
32 authority may provide that such mortgage loans shall be secured
33 by one or more capital reserve funds established pursuant to
34 subsection 1. Any commitment with respect to a mortgage loan
35 executed and delivered pursuant to this section shall be
36 conclusive evidence of the eligibility of the mortgage loan for
37 capital reserve fund security and the validity of any such
38 commitment or contract shall be incontestable in the hands of a
39 mortgage lender except for fraud or misrepresentation on the part
40 of the mortgage lender. Mortgages secured by capital reserve
41 funds under this section are made legal investments for all
42 insurance companies, trust companies, banks, investment
43 companies, savings banks, savings and loan associations,
44 executors, trustees and other fiduciaries, public and private
45 pension or retirement funds and other persons.

46
47 6. Appropriation. On or before December 1st, annually, the
48 authority shall certify to the Governor the amount, if any,
49 necessary to restore the amount in any capital reserve fund, to
50 which this subsection is stated in any written agreement, the
51 trust agreement or other document to apply, to the capital
reserve requirement. The Governor shall pay directly from the

1 State Contingent Account to any such fund as much of the amount
2 as is available in that account, as determined by the Governor,
3 and shall transmit directly to the Legislature certification and
4 a statement of the amount, if any, remaining to be paid. The
5 certified amount shall be appropriated and paid to the authority
6 during the current state fiscal year.

7
8 7. Obligations and securities outstanding. The authority
9 shall not have at any one time outstanding obligations or revenue
10 obligation securities to which subsection 6 is stated in any
11 agreement or the trust agreement or other document to apply in
12 principal amount exceeding an amount equal to \$50,000,000. The
13 amount of revenue obligation security issued to refund securities
14 previously issued shall not be taken into account in determining
15 the principal amount of securities outstanding, provided that
16 proceeds of the refunding securities are applied as promptly as
17 possible to the refunding of the previously issued securities.
18 In computing the total amount of revenue obligation securities of
19 the authority which may at any time be outstanding for any
20 purpose, the amount of the outstanding revenue obligation
21 securities that have been issued as capital appreciation bonds or
22 as similar instruments shall be valued as of any date of
23 calculation at their then current accreted value rather than
24 their face value.

25 §1767-L. Taxable bond option

26
27
28 With respect to all or any portion of any issue of any bonds
29 or any series of bonds which the authority may issue in
30 accordance with the limitations and restrictions of this
31 subchapter, the authority may covenant and consent that the
32 interest on the bonds shall be includable, under the United
33 States Internal Revenue Code of 1954 or any subsequent
34 corresponding internal revenue law of the United States, in the
35 gross income of the holders of the bonds to the same extent and
36 in the same manner that the interest on bills, bonds, notes or
37 other obligations of the United States is includable in the gross
38 income of the holders under the United States Internal Revenue
39 Code or any subsequent law. The foregoing grant of power shall
40 not be construed as limiting the inherent power of the State or
41 its agencies under any other provision of law to issue debt, the
42 interest on which is includable in the gross income of the
43 holders of the interest under the United States Internal Revenue
44 Code or any subsequent law.

45
46 SUBCHAPTER VII

47
48 HOST COMMUNITY BENEFITS

49 §1768-A. Host community benefits program established

50
51

1 A municipality that is selected as the site for a regional
2 or state solid waste disposal facility is entitled to the
3 benefits or programs contained in this subchapter. The benefits
4 shall be administered jointly through the authority and the
5 department as provided in this subchapter.

7 §1768-B. Information provided

9 The department shall provide all of the following
10 information to the governing body of the host municipality for
11 proposed and licensed waste facilities:

13 1. Inspection reports. Copies of department inspection
14 reports for waste facilities within the territorial jurisdiction
15 of the municipality and the district;

17 2. Enforcement action. Prompt notification of all
18 department enforcement or emergency actions for such fac' ities
19 including, but not limited to, abatement orders, cessation
20 orders, final civil penalty assessments and notices of
21 violations; and

23 3. Air and water monitoring. Copies of all air and water
24 monitoring data collected by che department at such facilities
25 within 5 working days of complete laboratory analysis of the data.

27 §1768-C. Payments in lieu of taxes

29 Host communities shall be entitled to a payment in lieu of
30 taxes. This payment shall be based on the actual cost of the
31 services rendered. Payments shall be on a reimbursement basis
32 for the preceding municipal fiscal year.

33 §1768-D. Reduced user fees

35 Host communities may be entitled to reduced user fees for
36 the waste disposal service that is sited within their
37 jurisdiction. This fee shall be reviewed by the authority
38 pursuant to subchapter VI to determine its reasonableness before
39 it is effective.

41 §1768-E. Local inspectors

43 1. Training and certification. The department shall
44 establish and administer a training program to certify host
45 municipality inspectors in coordination with the authority. This
46 program shall be available to no more than 2 persons within each
47 region who have been designated in writing by the solid waste
48 district and accepted by the host municipality. The department
49 shall certify host municipality inspectors upon completion of the
50 training program and satisfactory performance in an examination
51 administered by the department.

1
2. Powers and duties. Certified local inspectors are
3 authorized to enter property, inspect only those records required
4 by the department, take samples and conduct inspections in
5 accordance with department regulations. A certified inspector
6 may order the operator of a facility to cease any operation or
7 activity at the facility which constitutes an immediate threat to
8 public health and safety and which represents a violation of the
9 state solid waste laws or rules, or terms or conditions of a
10 permit issued from the department. The order shall expire within
11 2 hours unless the inspector notifies the department and the
12 governing body of the host community and the regional solid waste
13 district. The department may, after conducting an inspection,
14 supersede the local inspector's order by issuing an order of its
15 own which vacates or modifies the terms of the inspector's
16 order. If the department does not supersede the order, the order
17 shall expire after 24 hours unless otherwise extended by a court
18 of law.

19 The department may issue rules to implement this program.

21
3. Financial assistance. The authority may pay for the
22 host inspection training program and pay 50% of the approved cost
23 of employing a certified host municipality inspector for a period
24 not to exceed 5 years.

27
4. Decertification of local inspectors. The department may
28 decertify host municipality inspectors pursuant to regulations
29 promulgated by the department.

31 §1768-F. Local regulation of waste transportation

33 The host community shall have the authority to adopt
34 reasonable ordinances concerning the hours and days during which
35 vehicles may deliver waste to the site and the routing of traffic
36 on public roads to the site. The ordinances may be in addition
37 to, but not less stringent than, inconsistent with or in
38 violation of the goals of this chapter or any regulation
39 promulgated pursuant to this chapter which may address waste
40 transportation. Ordinances found to be inconsistent or not in
41 substantial conformity with this section may be enjoined before a
42 court of appropriate jurisdiction.

43 §1768-G. Water supply monitoring and protection

45
46 Upon written request from persons owning land contiguous to
47 a waste landfill, the operator of the landfill shall have
48 quarterly sampling and analysis conducted of private water
49 supplies used by the persons for drinking water. The sampling
50 and analysis shall be conducted in a manner and meeting criteria
51 developed by the department.

1 Any person owning or operating a waste management facility
2 that adversely affects a public or private water supply by
3 pollution, degradation, diminution or other means which result in
4 a violation of the state drinking water standards as determined
5 by the department shall restore the affected supply at no
6 additional cost to the owner or replace the affected supply with
7 an alternative source of water that is of like quantity and
8 quality to the original supply at no additional cost to the owner.

9
10 §1768-H. Independent permit review

11 The host community shall be entitled to automatic intervenor
12 status pursuant to section 1310-S.

13
14 §1768-I. Host district benefits program

15 Host districts shall be eligible for the same benefits, as
16 appropriate, as are available to host communities under this
17 subchapter.

18
19
20 SUBCHAPTER VIII

21 LIABILITY AND LIMITATIONS

22
23
24 §1769-A. Effect on tort claims

25 Nothing in this subchapter may be construed or understood as
26 in any way increasing any liability that may otherwise arise
27 under Title 14, chapter 741.

28 §1769-B. Liability limited

29 A host municipality or a district or municipality within the
30 district may not be held liable for bodily injury or property
31 damage resulting from pollution occurrence solely by reason of
32 participation in the preparation or adoption of a district solid
33 waste plan. Nothing in this subchapter may be construed to
34 prevent any host municipality, district or the State from
35 obtaining or giving such indemnities as may be appropriate in
36 connection with the ownership, operation or control of a
37 municipal solid waste facility.

38 §1769-C. Indemnification

39 Solid waste management districts may indemnify persons
40 providing solid waste disposal or resource recovery services or
41 operating solid waste or resource recovery facilities for
42 liabilities or claims arising out of the provision or operation
43 of such services or facilities.

44 §1769-D. Transfer of liability

1
3 The liability established under the Maine Hazardous Waste,
5 Septage and Solid Waste Management Act and chapter 13-B and any
7 regulations for the owner or operator of a solid waste disposal
9 facility shall be transferred to and assumed by the Solid Waste
11 Trust Fund established under this chapter when:

13 1. Compliance with state requirements. The facility and
15 the owner and operator of the facility have complied with the
17 requirements of the Maine Hazardous Waste, Septage and Solid
19 Waste Management Act and rules under that Act, and any applicable
21 contract for the provision of waste services entered into by the
23 State or district, which may affect the performance of the
25 facility after closure; and

27 2. Monitoring. The facility has been closed in accordance
29 with state rules and contractual agreements, and the facility and
31 the surrounding area have been monitored as required by the rules
33 for a period not to exceed 30 years after closure to demonstrate
35 that there is no substantial likelihood that any migration
37 offsite or release from confinement of any hazardous substances
39 or other risk to public health or welfare will occur as
41 determined by the department.

43 **§1769-E. Effect on existing contracts and facilities**

45 Nothing in this chapter may be construed to interfere with
47 or in any way modify the provisions of any contract in force upon
49 the effective date of this Act. The Act is not intended to
51 prohibit or limit any existing or future public, private or
commercial landfill facilities or solid waste management
activities.

§1769-F. Municipal contracts

A municipality may contract with any person to carry out its
duties for the recycling, transportation, collection and storage
of municipal waste and source-separated materials to be recycled.
if the recycling, transportation, collection or storage activity
or facility is conducted or operated in a manner that is
consistent with the provisions of this chapter, the state and
district solid waste management plans and the rules promulgated
pursuant to this chapter.

1. Existing contracts. Except as otherwise provided in
this chapter, nothing in this chapter may be construed to
interfere with, or in any way modify, the provisions of any
contract for municipal waste disposal, processing or collection
in force in any district, other municipality or municipal
authority upon the effective date of this chapter or prior to the
adoption pursuant to this chapter of a district plan approved by
the authority.

1
2 2. Renewals. No renewal of any existing contract upon the
3 expiration or termination of the original term of the contract,
4 and no new contract for municipal waste disposal, processing or
5 collection may be entered into after the effective date of this
6 Act, if the renewal or new contract fails to conform to the
7 applicable provisions of this Act or interferes with the
8 implementation of an approved district or state plan.

9
10 §1769-G. Municipal ordinances

11
12 Under the municipal home rule authority granted by the
13 Constitution of Maine, Article VIII, Part Second and Title 30-A,
14 chapter 111, municipalities, except as provided in section
15 1765-H, may only enact those reasonable ordinances with respect
16 to fire safety, traffic safety and levels of noise which can be
17 heard outside a waste facility, including facilities that treat,
18 store or dispose of solid and special wastes generated by the
19 owner or operator if the facility is at the site generation or
20 distant from it.

21 Local ordinances shall be advisory to state-owned facilities.

22
23 **PART B**

24
25 **Sec. 1. 10 MRSA §1023-F is enacted to read:**

26
27 §1023-F. Recycling and Waste Reduction Loan Fund

28
29 1. Creation. The Recycling and Waste Reduction Loan Fund
30 is created and established under the jurisdiction and control of
31 the authority.

32
33 2. Sources of money. There shall be paid into the fund the
34 following:

35
36 A. All money appropriated for inclusion in the fund;

37
38 B. Subject to any pledge, contract or other obligation, all
39 interest, dividends or other pecuniary gains from investment
40 of money of the fund;

41
42 C. Subject to any pledge, contract or other obligations,
43 any money which the authority receives in repayment of
44 advances from the fund; and

45
46 D. Any other money available to the authority and directed
47 by the authority to be paid into the fund.

48
49 3. Application of fund. Money in the fund may be used for
50 direct loans for all or part of any project when the authority
51 determines that:

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A. The project is designed to reduce substantially or eliminate the production in a trade or business of solid waste or hazardous waste, as defined in Title 38, section 1303, subsections 5 and 10 or is a manufacturing project devoted to resource recovery, as defined in Title 38, section 1303, subsection 8;

B. There is a reasonable likelihood that the applicant will be able to repay the loan;

C. The amount and terms of the loan are reasonable in order to provide an incentive to the applicant to undertake the project, which may include a below-market interest rate, and the project will not result in a net increase in solid or hazardous waste to be disposed within the State; and

D. The project will contribute to the achievement of the goals identified in the state solid waste management plan adopted under the Waste Reduction, Recycling and Waste Management Act of 1989, and is determined by the Maine Solid Waste Management Authority to be consistent with that plan and the district solid waste plan pursuant to Title 38, chapter 18, subchapter III.

The authority, pursuant to Title 5, chapter 375, subchapter II, shall adopt rules for determining eligibility, feasibility, terms, conditions and security for the loans. Money in the fund not needed currently to meet the obligations of the authority as provided in this section may be invested in such a manner as permitted by law.

4. Accounts within fund. The authority may divide the fund into such separate accounts as it determines necessary or convenient for carrying out this section, including, but not limited to, accounts reserved for direct loan funds.

5. Revolving fund. The fund shall be a nonlapsing, revolving fund. All money in the fund shall be continuously applied by the authority to carry out this section.

Sec. 2. 10 MRSA §1041, sub-§18 is enacted to read:

18. Recycling and waste reduction. Provide financial assistance to businesses for recycling and waste reduction projects that are consistent with the management goals and objectives outlined in the state and district plans under Title 38, chapter 18, subchapter III. The Maine Solid Waste Management Authority shall provide assistance to the authority in determining consistency, technical eligibility and merit of application for recycling loans.

1 Sec. 3. 10 MRSA §1043, sub-§ 2, ¶E-1 is enacted to read:

3 E-1. In the case of recycling and waste reduction projects,
5 the proposed facility must be consistent with the state and
7 district solid waste management plans under Title 38,
 chapter 18, subchapter III and will reduce the amount of
 solid or hazardous waste requiring disposal.

9 Sec. 4. 10 MRSA §1063, sub-§ 2, ¶I-1 is enacted to read:

11 I-1. In the case of recycling and waste reduction projects,
13 the proposed facility is consistent with and will contribute
15 to the management goals and objectives outlined in the state
17 and district solid waste management plans under Title 38,
19 chapter 18, subchapter III and will reduce the amount of
 solid or hazardous waste requiring disposal. The Maine
 Solid Waste Management Authority shall provide assistance to
 the authority in determining consistency, technical
 eligibility and merit of applications for assistance under
 this subchapter.

21 Sec. 5. 32 MRSA c. 26 is enacted to read:

23

25

CHAPTER 26

27

CODING OF PLASTIC CONTAINERS

29

§1721. Definitions

31

As used in this chapter, unless the context indicates
otherwise, the following terms have the following meanings.

33

35 1. Beverage. "Beverage" means any liquid produced or
37 packaged for internal human consumption. Beverage includes, but
 is not limited to, water, ale, beer, spirits, soda water and
 other carbonated and noncarbonated liquids.

39

41 2. Container. "Container" means any bottle, can, jar,
 case, package or other receptacle intended to hold, carry and
 enclose beverages, food items or nonfood products.

43

45 3. Rigid plastic container. A "rigid plastic container" is
47 a container made of synthetic or natural polymerized resins or
 cellulose derivatives including, but not limited to, all
 materials cited in section 1723, which retains the same shape
 whether full or empty.

49

§1722. Coding of plastic containers

51

On or after January 1, 1991, no person may distribute, sell
or offer for sale in this State any rigid plastic container,

1 unless that container has a molded label indicating the plastic
2 resin used to produce the rigid plastic container.

3 §1723. Labels

4
5 Each rigid container shall display a label which shall
6 appear on the bottom and be clearly visible. This label shall
7 consist of a number with letters placed below the number. The
8 numbers and letters shall be as follows:

9
10 1. Polyethylene terephthalate. For polyethylene
11 terephthalate, the letters "PETE" and the number 1;

12
13 2. High density polyethylene. For high density
14 polyethylene, the letters "HDPE" and the number 2;

15
16 3. Vinyl. For vinyl, the letter "V" and the number 3;

17
18 4. Low density polyethylene. For low density polyethylene,
19 the letters "LDPE" and the number 4;

20
21 5. Polypropylene. For polypropylene, the letters "PP" and
22 the number 5;

23
24 6. Polystyrene. For polystyrene, the letters "PS" and the
25 number 6; and

26
27 7. Other. For any other plastic resins, including
28 multilayer, the letters "OTHER" and the number 7.

29
30 §1724. Pharmaceutical exemption

31
32 Any rigid plastic container with a volume of 8 ounces or
33 less which is used to package pharmaceutical products is exempt
34 from this chapter.

35
36 §1725. Penalties

37
38 1. Civil violation. A violation of this chapter by any
39 person shall be a civil violation for which a forfeiture of not
40 more than \$100 may be adjudged.

41
42 2. Separate violation. Each day that such violation
43 continues or exists constitutes a separate offense.

44
45 §1726. Rules and enforcement

46
47 The Maine Solid Waste Management Authority shall adopt and
48 enforce rules implementing the provisions of this chapter. In
49 adopting rules, the authority shall consult with the Department
50 of Agriculture, Food and Rural Resources, plastic container
51 manufacturers and distributors and the recycling industry. Rules

1 shall be adopted in accordance with the provisions of the Maine
2 Administrative Procedure Act, Title 5, chapter 375.

3
4 **Sec. 6. 32 MRSA §1862, sub-§1**, as amended by PL 1987, c. 649,
5 §1, is repealed.

6
7 **Sec. 7. 32 MRSA §1862, sub-§1-A** is enacted to read:

8 1-A. Beverage. "Beverage" means beer, ale or other drink
9 produced by fermenting malt; spirits, wine, wine coolers; soda or
10 noncarbonated water; and all nonalcoholic carbonated or
11 noncarbonated drinks in liquid form and intended for internal
12 human consumption except for milk and dairy-derived products.

13
14 **Sec. 8. 32 MRSA §1862, sub-§12-B** is enacted to read:

15 12-B. Spirits. "Spirits" means spirits as defined in Title
16 28-A, section 2.

17
18 **Sec. 9. 32 MRSA §1862, sub-§§14 and 15** are enacted to read:

19 14. Wine. "Wine" means wine as defined in Title 28-A,
20 section 2 except that for the purposes of this chapter wine shall
21 not include wine coolers.

22 15. Wine cooler. "Wine cooler" means a beverage of less
23 than 8% alcohol content by volume consisting of wine and:

24 A. Plain, sparkling or carbonated water; and

25 B. Any one or more of the following:

26 (1) Fruit juices;

27 (2) Fruit adjuncts;

28 (3) Artificial or natural flavors or flavorings;

29 (4) Preservatives;

30 (5) Coloring; or

31 (6) Any other natural or artificial blending material.

32
33 **Sec. 10. 32 MRSA §1863**, as amended by PL 1979, c. 462, §3, is
34 repealed.

35
36 **Sec. 11. 32 MRSA §1863-A** is enacted to read:

37 §1863-A. Refund value

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1 Every beverage container sold or offered for sale to a
2 consumer in this State shall have a refund value.

3 1. Refillable containers. For refillable beverage
4 containers, except wine and spirits containers, the refund value
5 shall be determined by the manufacturer according to the type,
6 kind and size of the beverage container but shall not be less
7 than 5¢.

8 2. Nonrefillable containers. For nonrefillable beverage
9 containers, except wine and spirits containers, the deposit and
10 refund value shall be determined and initiated by the distributor
11 according to the type, kind and size of the beverage container,
12 but shall not be less than 5¢.

13 3. Wine and spirits containers. For wine and spirit
14 containers of greater than 50 milliliters, the refund value shall
15 not be less than 20¢. On January 1, 1992, the department shall
16 issue a finding on the percentages of wine containers and spirits
17 containers returned for deposit. If the department finds the
18 return rate of wine containers was less than 60% during 1991,
19 then on July 1, 1992, the refund value on wine containers shall
20 not be less than 50¢. If the department finds the return rate of
21 spirits containers was less than 60% during 1991, then on July 1,
22 1992, the refund value of spirits containers shall not be less
23 than 50¢.

24 Sec. 12. 32 MRSA §1866, sub-§4, as amended by PL 1979, c. 735,
25 is further amended to read:

26 4. Reimbursement by distributor. In addition to the
27 payment of the refund value, the distributor shall reimburse the
28 dealer or local redemption center for the cost of handling
29 beverage containers, in an amount which equals at least 2¢ 4¢ per
30 returned container.

31 Sec. 13. 36 MRSA §5219-C is enacted to read:

32 §5219-C. Solid waste reduction investment tax credit

33 1. Credit allowed. A taxpayer constituting an employing
34 unit who purchases resource recovery equipment, source separation
35 equipment or other equipment used exclusively by that unit, in
36 the implementation of a solid waste reduction, reuse or recycling
37 program, shall be entitled to a credit against the tax imposed by
38 this Part equal to 30% of the cost of the machinery or equipment.

39 2. Eligible machinery and equipment. Purchases eligible
40 for the credit allowed by this section include machinery and
41 equipment used exclusively for the purpose of reducing, reusing
42 or recycling solid waste generated principally by the employing
43 unit.

1 unit, with the exception of machinery and equipment associated
2 with waste incineration.

3 3. Definitions. As used in this section, the following
4 terms have the following meanings:

5 A. "Employing unit" has the same meaning as in Title 26,
6 section 1043;

7 B. "Solid waste" has the same meaning as in Title 38,
8 section 1760-C;

9 C. "Resource recovery equipment" means structures,
10 machinery or devices, singly or in combination, designed and
11 required to separate, process, modify, convert, treat or
12 repair solid waste generated by the employing unit so that
13 component materials or substances or recoverable resources
14 may be used as a raw material or for productive use.

15 D. "Source separation equipment" means:

16 (1) Add-ons or trailers designed to modify collection
17 vehicles and dedicated to sorting and separating of
18 collected wastes generated by the employing unit and
19 held for the purpose of recycling; or

20 (2) Containers for the source separation and temporary
21 storage of recycle-wastes by the employing unit or its
22 employees.

23 4. Carryover; carryback. The amount of the credit that may
24 be used by a taxpayer for a taxable year may not exceed the
25 amount of tax otherwise due under this section. Any unused
26 credit may be carried over to the following year or years for a
27 period not to exceed 15 years or may be carried back for a period
28 not to exceed 3 years.

29 **Sec. 14. Effective date.** Sections 7 through 13 of this Part
30 shall take effect January 1, 1990.

31 PART C

32 **Sec. 1. 30-A MRSA §4704,** as enacted by PL 1987, c. 737, Pt.
33 A, §2 and Pt. C, §106, and as amended by PL 1989, c.c. 6 and 9,
34 is repealed.

35 **Sec. 2. 38 MRSA §1302,** as repealed and replaced by PL 1987,
36 c. 517, §5, is amended to read:

37 **§1302. Declaration of policy**

1 The Legislature declares it to be the policy of the State,
3 consistent with its duty to protect the health, safety and
5 welfare of its citizens, enhance and maintain the quality of the
7 environment, conserve natural resources and prevent water, air
9 and land pollution, that it shall encourage and ensure adequate
11 and secure hazardous waste, septage and solid waste programs
13 disposal facilities, public and private, which will reduce
15 accommodate the volume of hazardous waste, septage and solid
waste generation, ~~increase the level of recycling of all waste,~~
~~improve efforts to reuse and recover valuable resources currently~~
~~being wasted~~ consistent with the waste management hierarchy
outlined in chapter 18, the management objectives described in
the adopted state and regional solid waste management plans and
which will not adversely affect the public health, safety and
welfare nor degrade the environment.

17 ~~The Legislature also finds and declares that economic,~~
19 ~~efficient and environmentally sound methods of waste recycling~~
~~and disposal are of the highest priority, Municipalities and~~
21 ~~other persons are generating increasing amounts of hazardous~~
23 ~~waste, septage and solid waste with no systematic or consistent~~
~~methods being used to reduce the volume, recycle or soundly~~
~~dispose of waste.~~

25 ~~The Legislature finds that environmentally suitable sites~~
27 ~~for waste disposal are in limited supply and represent a critical~~
~~natural resource. At the same time, new technologies and~~
29 ~~industrial developments are making the recycling and reuse of~~
31 ~~waste an increasingly viable and economically attractive option,~~
33 ~~which carries minimal risk to the State and the environment and~~
~~an option which allows the conservation of the State's limited~~
~~safe disposal capacity. In addition, the Legislature finds that~~
35 ~~it is in the best interests of the State to maintain a broad~~
~~diversity of waste reduction, waste recycling, reuse and disposal~~
~~methods and that options with lower health and environmental risk~~
37 ~~should not be foreclosed by the State's commitment to any single~~
~~option.~~

39 ~~The Legislature further finds that failure to analyze and~~
41 ~~plan properly for future hazardous waste, septage and solid waste~~
~~disposal and recycling needs may reduce the options open to the~~
43 ~~State and may further deplete already taxed natural resources and~~
45 ~~aggravate environmental and public health problems resulting from~~
~~current inadequate practices of resource recovery and~~
~~conservation, recycling, waste storage and management,~~
~~transportation, treatment and disposal.~~

47 ~~The Legislature declares that a program to rigorously~~
49 ~~analyze and plan for the hazardous waste, septage and solid waste~~
~~disposal requirements of the State is necessary to protect the~~
51 ~~public health, safety and welfare of the State.~~

1 The Legislature further finds that substantial quantities of
2 waste oil are contaminated by hazardous waste and that waste oil,
3 if not properly handled, is a threat to the public health, safety
4 and welfare and to the environment and, therefore, must be
5 controlled.

7 The Legislature finally declares that the provisions of this
8 chapter shall be construed liberally to address the findings and
9 to accomplish the policies established in this section.

11 **Sec. 3. 38 MRSA §1303, sub-§1-D** is enacted to read:

13 1-D. Authority. "Authority" means the Maine Solid Waste
14 Management Authority.

15 **Sec. 4. 38 MRSA §1303, sub-§3-A**, as enacted by PL 1981, c.
16 528, §1, is amended to read:

19 3-A. Final implementation of resource conservation or
20 resource recovery. "Final implementation of resource
21 conservation or resource recovery" means negotiating and
22 obtaining the contracts, agreements, financing, permits and
23 administrative framework necessary to construct or procure a
24 resource conservation or resource recovery facility. ~~The Board of~~
25 ~~Environmental Protection is authorized to pay an amount not in~~
26 ~~excess of 50% of the total eligible expenses incurred by a~~
27 ~~municipality or quasi-municipal entity for the final~~
28 ~~implementation of solid waste resource conservation or resource~~
29 ~~recovery or programs determined to be feasible by the Board of~~
30 ~~Environmental Protection. Grants under this subsection can be~~
31 ~~used to cover development costs or other reasonable one-time~~
32 ~~eligible costs. In addition, grants under this subsection can be~~
33 ~~used to assist municipal and quasi-municipal recycling programs~~
34 ~~with capital and one-time equipment costs.~~

35 ~~A. The board after public hearing shall adopt criteria for~~
36 ~~the purpose of establishing eligible costs.~~

37 ~~B. The board may adopt, amend and repeal reasonable rules~~
38 ~~necessary for the proper administration of the grant program~~
39 ~~authorized by this subsection and subsection 10-A.~~

40 ~~C. In the event that there is a combination of federal and~~
41 ~~state grants that exceeds the total costs of the projects~~
42 ~~eligible for state assistance under this subsection or~~
43 ~~subsection 10-A, the Board of Environmental Protection may~~
44 ~~reduce the state's share by an amount equivalent to the~~
45 ~~amount in excess of the total costs of the project.~~

46 **Sec. 5. 38 MRSA §1304, sub-§1**, as amended by PL 1981, c. 470,
47 Pt. A, §171, is further amended to read:
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1 1. Rules. Subject to the Maine Administrative Procedure
2 Act, Title 5, chapter 375, the board may adopt, amend and enforce
3 rules as it deems necessary to govern waste management, including
4 the location, establishment, construction and alteration of waste
5 facilities as the facility affects the public health and welfare
6 or the natural resources of the State. The rules shall be
7 designed to encourage ~~logical utilization of recoverable~~
8 ~~resources,~~ minimize pollution of the state's State's air, land
9 and surface and ground water resources, prevent the spread of
10 disease or other health hazards, prevent contamination of
11 drinking water supplies and protect public health and safety. In
12 adopting these rules, the board shall also consider economic
13 impact, technical feasibility and such differences as are created
14 by population, hazardous or solid waste, sludge or septage volume
15 and geographic location.

17 Sec. 6. 38 MRSA §1304, sub-§3, as enacted by PL 1973, c. 387,
18 is repealed.

19 Sec. 7. 38 MRSA §1304, sub-§4, as amended by PL 1987, c. 883,
20 §1, is further amended to read:

21 4. Technical assistance. The department is authorized to
22 establish guidelines for effective waste management disposal, to
23 provide technical assistance to persons planning, constructing or
24 operating waste facilities, and to conduct applied research
25 activities in the field of waste management, disposal technology
26 and environmental effects, including methods of recycling
27 hazardous or solid waste, sludge or septage. The department
28 shall develop a pilot program to provide grants for the
29 identification, design and development of tire and white goods
30 disposal facilities, including pickup of these items, and stump
31 and demolition debris disposal facilities by municipalities,
32 solid waste management districts, county governments and regional
33 planning agencies. The department shall cooperate with the
34 authority in the design and delivery of this assistance.

35 Sec. 8. 38 MRSA §1304, sub-§5, as repealed and replaced by PL
36 1979, c. 383, §7, is repealed.

37 Sec. 9. 38 MRSA §1304, sub-§11, as enacted by PL 1985, c. 157,
38 is amended to read:

39 11. Imported waste report. The board shall report to the
40 Legislature on the solid waste imported and disposed of in the
41 State. The report shall include consideration of the following
42 areas:

43 A. The categories of imported waste materials, including
44 hazardous waste, solid waste and any other waste material
45 designated by the board as special waste;
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- 1 B. The volumes or weights, as appropriate, of imported
waste;
- 3
- 5 C. The method of disposal, including, but not limited to
incineration and landfilling, the location of the disposal
7 sites receiving the imported waste and the estimated
remaining capacity of each site;
- 9 D. The states of origin of the imported waste and the
regulations governing the disposal of these wastes in their
11 respective states of origin; and
- 13 E. Any potential environmental or public health hazards
posed by imported waste.
- 15

17 The board shall submit the report to the joint standing committee
of the Legislature having jurisdiction over natural resources.
19 The first report shall be due on or before January 1, 1986, and
thereafter the report shall be made to the First Regular Session
of the Legislature. Beginning with the First Regular Session of
21 the Legislature in 1991, the report shall be developed in
23 cooperation with the authority, shall be issued jointly by the
25 authority and the department to the Legislature and shall be
incorporated in the initial and subsequent state solid waste
management plans.

27 The commissioner may, by rule, require any person importing or
disposing of imported hazardous waste, solid waste or any other
29 imported waste designated by the board as special waste, to
report the volumes, weights and types of waste imported and
31 report on the state of origin.

33 **Sec. 10. 38 MRSA §1304, sub-§13, as enacted by PL 1987, c.**
517, §12, is amended to read:

35

37 **13. Innovative disposal and utilization.** Recognizing that
environmentally suitable sites for waste disposal are in limited
supply and represent a critical natural resource, the
39 commissioner may investigate and implement with the approval of
the board innovative programs for managing, utilizing and
41 disposing of solid waste. Innovative programs may include
agricultural and forest land spreading of wood-derived ash, paper
43 mill sludges and municipal waste water treatment plant sludges.
The authority shall first determine that the proposed innovative
45 disposal and waste management programs are consistent with the
State and district solid waste management plan. The board
47 shall review proposed innovative programs for each waste category
and shall apply all controls necessary to ensure the protection
49 of the environment and public health consistent with this
chapter. The board may adopt application review procedures
51 designed to review individual applications and their individual
waste sources with prior approval of classes of disposal or

1 utilization sites. The board shall adopt provisions for
3 municipal notification prior to use of individual utilization
sites.

5 **Sec. 11. 38 MRSA §1304, sub-§§14 and 15,** as enacted by PL 1987,
7 c. 517, §12, are repealed.

9 **Sec. 12. 38 MRSA §1304-B, sub-§1,** as enacted by PL 1983, c.
380, §1, is repealed.

11 **Sec. 13. 38 MRSA §1304-B, sub-§2,** as amended by PL 1987, c.
13 517, §§14 and 15, is repealed.

15 **Sec. 14. 38 MRSA §1304-B, sub-§3,** as amended by PL 1987, c.
517, §16, is repealed.

17 **Sec. 15. 38 MRSA §1304-B, sub-§4,** as amended by PL 1985, c.
19 593, §8, is repealed.

21 **Sec. 16. 38 MRSA §1305, sub-§5,** as amended by PL 1987, c. 737,
Pt. C, §§97 and 106, and as amended by PL 1989, c.c. 6 and 9, is
23 repealed.

25 **Sec. 17. 38 MRSA §1309,** as amended by PL 1987, c. 517, §22,
is further amended to read:

27 **§1309. Interstate cooperation**

29 The Legislature encourages cooperative activities by the
31 department and the authority with other states for the improved
33 management of hazardous and solid waste; for improved, and so far
as is practicable, uniform state laws relating to the management
of hazardous and solid waste; and compacts between this and other
states for the improved management of hazardous and solid waste.

35 **Sec. 18. 38 MRSA §1310-J,** as enacted by PL 1987, c. 517, §25,
37 is repealed.

39 **Sec. 19. 38 MRSA §1310-K,** as amended by PL 1987, c. 752, §§1
and 2, is repealed.

41 **Sec. 20. 38 MRSA §1310-L,** as amended by PL 1987, c. 769, Pt.
43 A, §182, is repealed.

45 **Sec. 21. 38 MRSA §1310-M,** as enacted by PL 1987, c. 517,
§25, is repealed.

47 **Sec. 22. 38 MRSA §1310-N, first ¶,** as enacted by PL 1987, c.
49 517, §25, is amended to read:

51 No person may locate, establish, construct, expand disposal
capacity or operate any solid waste facility unless the proposed

1 activity is first determined by the authority to be consistent
3 with the state and district solid waste management plans under
4 chapter 18 insofar as the authority has jurisdiction over the
5 facility and approved by the board under the site location of
6 development laws, chapter 3, subchapter 1 I, article 6 and the
7 provisions of this chapter.

8 **Sec. 23. 38 MRSA §1310-N, sub-§1, ¶¶A and B,** as enacted by PL
9 1987, c. 517, §25, are amended to read:

11 A. The facility will not pollute any water of the State,
12 contaminate the ambient air, constitute a hazard to health
13 or welfare or create a nuisance; and

15 B. In the case of a disposal facility, the facility
16 provides a substantial public benefit as determined by the
17 authority insofar as the authority has jurisdiction over the
18 facility; and

19 **Sec. 24. 38 MRSA §1310-N, sub-§1, ¶C,** as enacted by PL 1987,
20 c. 517, §25, is repealed.

23 **Sec. 25. 38 MRSA §1310-N, sub-§2,** as enacted by PL 1987, c.
24 517, §25, is repealed.

25 **Sec. 26. 38 MRSA §1310-N, sub-§3,** as enacted by PL 1987, c.
26 517, §25, is amended to read:

29 3. **Public benefit determination.** The board shall find that
30 a facility provides a substantial public benefit when the
31 ~~applicant demonstrates~~ authority determines that the proposed
32 facility is consistent with and will serve to satisfy the
33 ~~capacity-needs-identified-pursuant-to-section-1310-Q~~ objectives
34 of the adopted state and district solid waste management plans
35 pursuant to chapter 18 insofar as the authority has jurisdiction
36 over the facility. ~~The board shall make this finding when it~~
37 ~~determines that the proposed facility is designed and located and~~
38 ~~will be operated so that it meets the needs identified in the~~
39 ~~capacity-needs-analysis.~~

41 **Sec. 27. 38 MRSA §1310-N, sub-§§4 and 5,** as enacted by PL 1987,
42 c. 517, §25, are repealed.

43 **Sec. 28. 38 MRSA §1310-O,** as enacted by PL 1987, c. 517,
44 §25, is repealed.

47 **Sec. 29. 38 MRSA §1310-P, sub-§5,** as enacted by PL 1987, c.
48 517, §25, is repealed.

49 **Sec. 30. 38 MRSA §1310-R, sub-§2,** as enacted by PL 1987, c.
50 517, §25, is repealed.

1 **Sec. 31. 38 MRSA §1310-R, sub-§3, ¶A**, as enacted by PL 1987,
c. 517, §25, is amended to read:

3
4 A. The board shall require an applicant for a new or
5 expanded solid waste disposal facility submitting a complete
6 application prior to the initial adoption of the ~~capacity~~
7 ~~needs-analysis-pursuant-to-section-1310-O~~ state solid waste
8 management plan pursuant to chapter 18 insofar as the
9 authority has jurisdiction over the facility to submit such
10 information as the board requires to demonstrate that the
11 proposed facility provides a substantial public benefit,
12 including such information described in ~~section-1310-O~~ the
13 capacity needs analysis prepared by the department.

15 **Sec. 32. 38 MRSA §1310-S, sub-§1**, as enacted by PL 1987, c.
517, §25, is amended to read:

17 1. **Notification.** A person applying for a license under
18 this article or giving notice to the department pursuant to
19 section 483, shall give, at the same time, written notice to the
20 municipal officers of the municipality and to the board of
21 directors of the solid waste management district in which the
22 proposed facility may be located and shall publish notice of the
23 application in a newspaper of general circulation in the area.

25 **Sec. 33. 38 MRSA §1310-U**, as enacted by PL 1987, c. 517, §25,
27 is repealed.

29 **Sec. 34. 38 MRSA §1319-P**, as reallocated by PL 1987, c. 517,
§23, is repealed.

31 **Sec. 35. 38 MRSA §1319-Q**, as reallocated by PL 1987, c. 517,
33 §13, is repealed.

35 **Sec. 36. 38 MRSA §1319-R, sub-§1**, as enacted by PL 1987, c.
517, §28, is amended to read:

37 1. **Licenses for hazardous waste facilities.** The board
38 shall issue a license for a hazardous waste facility whenever it
39 finds it will not pollute any water of the State, contaminate the
40 ambient air, constitute a hazard to health or welfare or create a
41 nuisance and the proposed facility is consistent with the state
42 solid waste management plan as determined by the authority
43 pursuant to chapter 18. Licenses shall be issued under the terms
44 and conditions as the board may prescribe and for a term not to
45 exceed 5 years. The board may establish reasonable time schedules
46 for compliance with this subchapter and regulations promulgated
47 by the board.

49 A. The board shall also find that:

51

1 (1) The applicant presents evidence of sufficient
3 financial capacity, including projections of
utilization of the facility by hazardous waste
generators, to justify granting the license;

5 (2) Issuing the license is consistent with the
7 applicable standards, requirements and procedures of
this chapter; and

9 (3) In the case of a disposal facility, the volume of
11 the waste and the risks related to its handling have
13 been reduced to the maximum practical extent by
treatment and volume reduction prior to disposal.

15 B. The board shall issue an interim license for a waste
17 facility for hazardous waste or shall deem the facility to
be so licensed if:

19 (1) The waste facility is in existence on April 1,
21 1980;

23 (2) The owner or operator has:

25 (a) Notified the department of its location;

27 (b) Provided a detailed description of the
operation of the facility;

29 (c) Identified the hazardous waste it handles;
and

31 (d) Applied for a license to handle hazardous
33 waste;

35 (3) The waste facility is not altered or operated
except in accordance with the board's rules; and

37 (4) If the waste facility has a discharge or emission
39 license under sections 414 or 591, and the facility is
operated in accordance with that license.

41 C. Interim licenses shall expire on the earliest of the
43 following dates:

45 (1) The date of the final administrative disposition
of the application for a hazardous waste facility
47 license;

49 (2) The date of a finding of the board that the
disposition referred to in subsection 1 has not been
51 made because of the applicant's failure to furnish

1 information reasonably required or requested to process
the application;

3
5 (3) The date of expiration of the license issued under
section 414 or 591; or

7 (4) The date on which the application for a hazardous
waste facility license is due and the person operating
9 under the interim license has failed to apply for the
hazardous waste facility license.

11
13 **Sec. 37. 38 MRSA §1319-R, sub-§2**, as enacted by PL 1987, c.
517, §28, is repealed.

15 **Sec. 38. 38 MRSA §1319-R, sub-§4**, as enacted by PL 1987, c.
517, §28, is amended to read:

17
19 **4. Municipal fees authorized.** A municipality, by
ordinance, may levy a fee on a commercial hazardous waste
21 facility located in the municipality. These fees shall be applied
as a percentage of the annual billings of the facility to its
23 customers. No fee so levied may exceed 2% of the annual billings.
The department authority may audit the accounts of a facility to
25 determine the amount of the fee owed to the municipality.

27 **Emergency clause.** In view of the emergency cited in the
preamble, this Act shall take effect when approved.

29 **STATEMENT OF FACT**

31
33 This bill establishes a system of solid waste management,
outlines new responsibilities for state and local governments and
35 the private sector, includes financial incentives for waste
reduction, recycling and appropriate disposal and requires
37 individuals, municipalities and businesses in the State to engage
in planning for waste management and to comply with waste
reduction and recycling goals. The specific elements of the bill
39 are as follows.

41 Part A of the bill establishes a waste hierarchy and
recycling goals, creates a system of waste management including
43 the Maine Solid Waste Management Authority and 7 districts,
requires the development of state and regional solid waste
45 management plans that include the designation of sites,
establishes revenues to fund the several new programs and
47 requirements and outlines state, district and local
responsibilities for waste planning and management.

49
51 Sections 1 to 4 of Part A establish the authority as a
bonding and finance organization and set the salary of the

1 executive director and expenses of the Solid Waste Management
Advisory Council.

3
5 Section 5 of Part A sets forth legislative policy objectives
and outlines the composition, duties and responsibilities of the
7 new authority and the 7 districts for waste planning and
management. This section establishes clear legislative policies
9 to form the foundation for a waste hierarchy. The waste
hierarchy sets priorities for planning goals and waste management
11 activities and establishes a state recycling goal of 25% in
1995. The hierarchy is waste reduction, recycling, resource
13 recovery and conservation and land disposal. All state and
district planning activities and all siting decisions must
15 address the waste hierarchy.

17 Section 5 of Part A further provides for the establishment
of the Maine Solid Waste Management Authority. The authority
19 shall be a quasi-public organization with broad responsibility to
plan for waste management, deliver financial and technical
21 assistance, implement the recycling programs, review fees and
operate certain waste facilities. The authority will be governed
23 by a board of directors consisting of 7 public members appointed
by the Governor with legislative confirmation. The authority is
25 advised by the Solid Waste Management Advisory Council reflecting
representation from a broad range of interests. The executive
27 director is appointed by the Governor.

29 The Office of Waste Recycling and Reduction, currently
within the Department of Economic and Community Development, its
31 staff and functions will be transferred to the authority and the
office's name will be changed.

33 The authority is charged with the following responsibilities:

35 The development and implementation of the state solid waste
management plan;

37 The responsibility for statewide waste reduction and
39 recycling initiatives;

41 The siting, financing, construction, ownership or operation
of waste facilities determined to be a state responsibility;

43 The review of fees charged for waste disposal services;

45 The provision of financial and technical assistance to
47 districts, municipalities and businesses;

49 The provision of public education and information;

51 The review of sites for consistency with state and district
planning objectives;

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The approval of district solid waste management plans; and

The directing of wastes from one facility within the State to another during emergency situations.

Section 5 of Part A further provides for 7 solid waste management districts established to plan, construct, maintain, operate and otherwise provide for a system of solid waste management for wastes generated within the district. The districts which are counties or aggregates of counties are the recommendation of the capacity needs analysis conducted by the department's consultant and reflect waste sheds. The districts are as follows:

- Region I: York County;
- Region II: Cumberland County;
- Region III: Androscoggin, Kennebec, Sagadahoc, Knox and Lincoln counties;
- Region IV: Waldo, Hancock, Penobscot and Piscataquis counties;
- Region V: Aroostook County;
- Region VI: Washington County; and
- Region VII: Oxford, Franklin and Somerset counties.

The districts will be governed by boards of 7 directors that are residents of the district. One member shall be a county commissioner and 2 members shall be selected by the county commissioners. The municipal officers of the district shall select 3 members. The 6 members shall select the 7th and final member of the district board.

The districts have the responsibility to conduct the following activities:

- Develop the district solid waste management plan;
- Plan, design, finance, construct and operate waste management facilities;
- Provide waste management services such as transportation, recycling and market development;
- Contract the operation of waste facilities or services;
- Site waste facilities;

1 Borrow to finance district facilities;
3
5 Exercise the power of eminent domain;
7 Develop and implement solid waste management regulations
 regarding district facilities and services;
9 Provide technical assistance to businesses and
 municipalities seeking to accomplish district solid waste
11 management objectives; and
13 Conduct public information and education activities.

15 Section 5 of Part A further provides for the development of
 state and regional plans to guide and direct waste management and
17 recycling activities. The state plan, the first to be developed
 by the Department of Environmental Protection by September 30,
19 1989, and adopted by the authority, will include the following
 components:
21 A characterization of wastes generated and disposed of in
23 the state, its amount, type, source and the costs of management;
25 An estimate of existing waste management capacity;
27 A projected demand at least 5 years into the future;
29 A recycling assessment;
31 An assessment of competition in the industry;
33 Options for waste management; and
35 State management goals and objectives including regional
 objectives.
37

39 The state plan will provide guidance and direction to the
 authority, districts and municipalities in planning and
41 implementing solid waste management and recycling alternatives.
 The plan will be adopted by the authority by January 1, 1990,
43 after consultation with the Department of Environmental
 Protection, the districts and the Solid Waste Management Advisory
45 Council. The plan will also serve as the basis for
 determinations of consistency in facility siting.

47 District plans will be adopted within one year of adoption of
 the state plan, but no later than January 1, 1991. District
49 plans will be developed in consultation with an advisory
 committee and will include the following:
51 An inventory of existing solid and special waste management

1 practices;

3 Future waste disposal needs;

5 An assessment of recycling activities;

7 Plan implementation actions;

9 Public education and compliance;

11 Siting, including candidate sites;

13 Enforcement;

15 Local participation; and

17 Public notice.

19 District plans will be submitted to the authority for review
and approval. The review process includes a 45-day comment
21 period for regional councils, municipalities and interested
parties. If a district plan is not approved, the authority may
23 develop and impose a plan for the district. Planning, technical
and financial assistance will be available to the districts to
25 develop and implement their plans.

27 Section 5 of Part A further provides for major new emphasis
on recycling and waste reduction. The authority is directed to
29 manage the recycling programs. The Office of Waste Recycling and
Reduction in the Department of Economic and Community Development
31 will be transferred to the new authority and its name changed.
This office, in addition to existing responsibilities, will
33 manage technical, financial and planning assistance programs for
municipalities, districts and businesses in order to accomplish
35 waste reduction and recycling goals and requirements. Grants
will be made available to districts to hire recycling
37 coordinators and to municipalities and businesses to establish
recycling programs.

39 It is the responsibility of municipalities to establish
41 recycling programs and programs of household hazardous waste
collection. Specifically, this section includes mandated
43 recycling targets for Maine communities. All communities with a
population of 5,000 or more must recycle to achieve a 25%
45 reduction goal by 1994, separate at least 3 materials, establish
local ordinances to accomplish recycling objectives, provide
47 scheduled pick-up or drop-off sites and transportation and
equipment sufficient to accomplish the recycling program. Each
49 district must recycle to achieve a 25% goal by 1995. All
communities must recycle one or more of 7 proposed materials by
51 1995. These materials are newsprint, corrugated cardboard, mixed

1 paper, glass, leaf and yard waste, plastics or others selected by
the municipality.

3
4 Businesses shall cooperate in meeting the state recycling
5 goal through a mandated office paper recycling program and by the
6 provision of incentives such as low-interest loans and tax
7 credits for the purchase of machinery, equipment and materials
8 that recycle or reduce wastes. An office paper recycling program
9 for Maine businesses will be phased in over the next 5 years,
based on the number of employees at a single site.

11
12 Section 5 of Part A further provides new requirements to
13 improve the siting process for new and expanded waste
14 facilities. Six months after the district plans have been
15 approved, each district will designate candidate sites that meet
16 the objectives of the district's solid waste management plan and
17 general suitability criteria. Site suitability criteria are
18 economic and public interest factors, including the site location
19 in relationship to transportation and population, its capacity,
pricing and preliminary environmental suitability.

21
22 The authority will have a similar responsibility for
23 designating sites for wastes determined to be the State's
24 responsibility. The Department of Environmental Protection shall
25 review and comment on the proposed candidate list before it is
adopted.

27
28 Applications for new or expanded waste management facilities
29 will be reviewed in 2 phases. The first phase is a review of the
30 suitability of the site and its consistency with state and
31 district plans. A site that is on the district's candidate list
32 will be considered consistent with the district plan. This
33 review will be conducted by the authority. A proposed site that
34 is not on a candidate list must demonstrate that it will not
35 interfere with the district or the state solid waste management
36 plan and must address the criteria used by the district or the
37 authority in their process of designating sites. The 2nd phase
38 is the Board of Environmental Protection review subsequent to
39 state law.

41 Both the authority and the districts have the ability to
42 acquire sites using the power of eminent domain. This ability is
43 subject to the existing statutory limitations governing the use
44 of eminent domain. Local ability to establish ordinances that
45 affect the siting of waste disposal facilities is limited.

47 Section 5 of Part A further provides for fee review and
48 financing authority. The authority and the districts must
49 establish just and reasonable rates for waste disposal services
50 that they provide. The authority and districts shall establish
51 fees which are uniform within their jurisdiction except for
accommodating the higher costs of certain service areas, lowering

1 fees for host communities and setting fees for other districts'
2 wastes. A schedule of fees must be filed with the authority by
3 the districts.

5 The authority shall review and approve all fee schedules and
6 shall review and approve contracts between districts and
7 commercial waste facilities to determine if the contract terms
8 are just and reasonable. The authority shall establish rules
9 governing the procedures for setting fees and for hearings and
10 appeals.

11 The bill proposes several methods of funding solid waste
12 management, waste reduction and recycling activities. These
13 include a fee at the point of disposal for municipal solid waste
14 that is disposed of at resource recovery facilities or at
15 commercial, municipal, district or state facilities, calculated
16 on a per tonnage or per cubic yard basis; a fee at the point of
17 disposal for special wastes that are disposed of at resource
18 recovery facilities or commercial, municipal, district or state
19 facilities; and a fee at the point of disposal for certain hard
20 to dispose of items such as tires, lead-acid batteries, white
21 goods and brown goods. The fees are paid by the operator on a
22 quarterly basis. There is a discount of 1% for those operators
23 who pay on a timely basis.

25 Both the authority and the districts have the authority to
26 issue revenue obligation securities and securities for mortgage
27 loans to finance waste management facilities, levy fees for
28 service and borrow and lend.

31 The Maine Solid Waste Management Fund is established similar
32 to the Maine Environmental Protection Fund; it is a nonlapsing
33 fund that is allocated by the Legislature for the costs of the
34 authority's programs and the Department of Environmental
35 Protection's regulatory and enforcement activities. The Solid
36 Waste Trust Fund is established and is similar to the Maine
37 Coastal and Inland Surface Oil Clean-up Fund. It is intended to
38 assist in the costs of the removal of pollutants or remediation
39 of sites, restoration of water supplies and 3rd-party damages.
40 The fund will be capitalized through a 5% set-aside from fees
41 levied at the state level up to a maximum fund level of
42 \$4,500,000. A board of arbitration is established to review
43 claims for damages.

45 Section 5 of Part A further provides for a program of
46 benefits to those communities or districts that are the sites of
47 new or expanded waste facilities. These benefits include access
48 to information from the Department of Environmental Protection;
49 funding for local inspectors; water supply monitoring and
50 testing; independent permit review; and financial assistance.

51

1 Section 5 of Part A limits the liability of host
3 municipalities and districts in cases resulting from pollution
occurrence solely by reason of participating in a solid waste
5 management plan. Liability for the owner or operator of a waste
disposal facility is transferred to the Solid Waste Trust Fund 30
7 years after closure if all requirements have been met.

9 Existing contracts are not affected by this legislation. No
renewal of an existing contract and no new contracts may be
11 entered into after the effective date of the legislation if the
contract fails to conform with the provisions of the bill or
interferes with the state or district plans.

13 Part B of the bill establishes financial incentives outside
15 of the authority for addressing and implementing recycling and
waste reduction activities. Sections 1 to 4 of Part B establish
17 a new low-interest loan program administered by the Finance
Authority of Maine and make minor modifications to the laws
19 governing the Finance Authority of Maine to allow its use of
other programs for the same purpose.

21 Section 5 of Part B requires the implementation of a plastic
23 container coding system. This system uses symbols representing
the type of plastic resin used in a container. The symbols are
25 molded into the bottom of the container and enhance their ability
to be recycled.

27 Sections 6 to 11 of Part B amend the bottle law to include
29 single serving noncarbonated beverage containers, wine and liquor
bottles.

31 Section 12 of Part B increases the handling fee from 2¢ to
33 4¢.

35 Section 13 of Part B establishes an investment tax credit
for the purchase of equipment that is used for waste reduction,
37 reuse or recycling programs.

39 Part C of the bill amends existing state law pertaining to
solid waste.

41 The sections contained in Part C do the following.

43 Section 1 repeals the state policy relating to municipal
45 commercial landfill facilities. New policy and local authority
to regulate waste facilities are outlined in Part A of this bill.

47 Section 2 amends the declaration of policy including
49 references to recycling. These policy objectives have moved to
the declaration of policy section in Part A of this bill.

51

1 Section 3 adds a definition of authority which means the
new Maine Solid Waste Management Authority to the laws governing
3 Department of Environmental Protection's licensing and permitting
functions.

5
6 Section 4 removes the ability of the Board of Environmental
7 Protection to reimburse municipalities for the costs of
implementing resource conservation or recovery programs. This
9 ability will reside with the new authority.

11 Section 5 delineates the new division of responsibility
between the authority and the department by clearly defining the
13 department's role in reviewing the proposal's effect on public
health and welfare and the environment. The authority will
15 determine if the facility is consistent with state solid waste
management objectives.

17
18 Section 6 repeals the requirement that municipalities must
19 file status reports with the department.

21 Section 7 limits the department's technical assistance
function to disposal technology.

23
24 Section 8 repeals the department's planning assistance
25 program. This assistance will be provided by the authority.

27 Section 9 amends the development of the imported waste
report to be developed by the department to include the
29 cooperation of the authority. The report will be issued jointly
beginning in 1991.

31
32 Section 10 requires that innovative disposal and waste
33 management programs offered by the department are consistent with
the objectives of the state solid waste management plan.

35
36 Section 11 repeals the ability of the department to assess
37 fees on special wastes. This ability will rest with the
authority and special waste fees will fund both agencies
39 programs. This section also repeals the department's special
services program which was intended to assist municipalities in
41 the management and disposal of municipal solid waste. This
function will transfer to the authority.

43
44 Sections 12 to 15 repeal the sections governing the delivery
45 of solid wastes to specific waste facilities. Section 5 of Part
A outlines new responsibilities for the authority and districts
47 in the regulation of the flow of waste.

49 Section 16 repeals municipal permitting of waste facilities.

51 Section 17 is amended to include the authority in
cooperative activities with other states to manage waste.

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Sections 18 to 22 repeal the existing recycling and waste reduction laws. These sections are reenacted in section 5 of Part A and will be the responsibility of the authority and districts.

Sections 23 and 24 amend the site location license process to require that the proposed activity is consistent with the state and district solid waste management plans before issuing a license.

Section 25 repeals the finding of environmental suitability requirement. This requirement will be part of the siting procedures outlined in Part A.

Section 26 amends the public benefit determination section to include consistency with the state and district solid waste management plans.

Section 27 repeals the presumption of public benefit and recycling and source reduction determination sections. These requirements will be incorporated into the state and district planning and siting procedures.

Section 28 repeals the capacity needs analysis requirement. This responsibility will be included in the state plan components.

Section 29 eliminates the municipal exemption to escrow closure accounts.

Section 30 amends transition provisions to remove the board's authority to consider recycling alternatives. This responsibility will transfer to the authority and will be part of the consistency determination.

Section 31 amends the transition provisions on public benefits to require applicants to demonstrate consistency with the capacity needs analysis prior to adoption of the state solid waste management plan.

Section 32 amends notification requirements to include the directors of the district boards.

Section 33 repeals municipal ordinance authority.

Sections 34 and 35 repeal the sections outlining municipal hazardous waste control and the department's responsibility for data collection and facility needs planning. These responsibilities will transfer to the authority.

1 Section 36 amends the review process for hazardous waste
2 facilities to require their consistency with the state solid
3 waste plan.

5 Section 37 repeals the provision outlining municipal
6 regulation of commercial hazardous waste facilities.

7
8 Section 38 transfers the ability to audit the accounts of a
9 commercial hazardous waste facility from the department to the
10 authority which will have broad responsibility to review fees.
11